

LOCAL RULES

FOR ST. JOSEPH COUNTY, INDIANA

PREAMBLE

It is intended that the business of the Courts in St. Joseph County will be conducted by the Judges and Magistrate Judges in a manner consistent with the Indiana Code of Judicial Conduct and that the attorneys and litigants shall conduct themselves consistent with the requirements of the Indiana Rules of Professional Conduct and other rules of court. The conduct of proceedings in Courts within St. Joseph County is appropriately described by the following quotation:

“[L]itigation provides an opportunity for private parties to dispose of disputes in orderly and disciplined fashion. But the open forum which our courts provide for conflict resolution is not, nor can it ever be, a license to slander and abuse one’s adversary. Such conduct diminishes the integrity of an institution whose usefulness depends upon the respect in which it is held by the public and by the lawyers who practice in it.”

Van Iderstine Company v. RGJ Contracting Co., Inc., 480 F.2d 454 (2nd Cir. 1973).

As noted by former Chief Justice Warren E. Burger, “fixed rules of etiquette and manners are the lubricant to keep the focus of the courtroom contest on issues and facts and away from distracting personal clashes and irrelevancies.” *Burger, ABA Journal 2, 74 Vol. 60, p.171 (1974).*

With this in mind, lawyers and litigants are enjoined regarding their continuing obligation to comply with the rules of court and to maintain an atmosphere of civility within the courtrooms in St. Joseph County.

LOCAL GENERAL AND ADMINISTRATIVE RULES FOR ST. JOSEPH COUNTY (100 SERIES)

Rule LR71-TR1-101. Intent and Scope of Local Rules.

These local rules are adopted by the Courts of the 60th Judicial Circuit pursuant to the authority of T.R. 81, Indiana Rules of Trial Procedure, and are intended to supplement those Rules.

These local rules shall govern the practice and procedure in all cases in the following courts:

- (1) St. Joseph Circuit Court (hereinafter "Circuit Court");
- (2) St. Joseph Superior Court (hereinafter "Superior Court"); and
- (3) St. Joseph Probate Court (hereinafter "Probate Court").

Wherever appropriate, the term "Judge" shall be construed to mean Judge, Magistrate Judge, Senior Judge or any other appropriate judicial officer of the applicable Court.

Nothing contained in these rules is intended to limit the jurisdiction and/or authority of any judge of Circuit Court, Superior Court, or Probate Court (hereinafter "Courts"); however, these rules shall control the assignment of cases within the 60th Judicial Circuit.

Rule LR71-AR00-102. Conduct, Dress, and Court House Policies.

- 102.1. Professional Conduct.** It is intended that the business of the Courts of the 60th Judicial Circuit will be conducted by the Judge in accordance with the Indiana Code of Judicial Conduct and that lawyers practicing in these Courts will do so in accordance with the Indiana Rules of Professional Conduct.

102.2. Behavior in the Courthouse. While in any of the courthouses within St. Joseph County, the following behavior is prohibited:

- (1) Lawyers and litigants shall not lean on the bench and shall not sit or lean on counsel tables or the jury box.
- (2) Lawyers, litigants, and spectators shall refrain from unnecessary conversation in the courthouse or in the courtroom that would disturb the proceedings. Any necessary conversation in the courthouse or in the courtroom shall be conducted at a sufficiently low voice level as not to interfere with the conduct of trials, hearings, or other proceedings before the court.
- (3) Lawyers, litigants, or spectators shall not enter the courtroom with food or beverages. Fresh water is supplied daily and is available to lawyers and litigants at counsel tables.
- (4) Lawyers, litigants, or any other person in the courtroom shall not talk to the court reporter during the hearings in which they are not participating.
- (5) Lawyers, litigants, or any other person shall not chew gum or tobacco in the courthouse.

102.3. Appearance and Dress. Every person who enters a court house in St. Joseph County should be appropriately dressed. Lawyers should appear for court proceedings in professional attire; litigants, witnesses and spectators should appear in appropriate attire. Examples of clothing that is inappropriate and is prohibited from being worn during court proceedings includes, but is not limited to:

- (1) Hats or caps;
- (2) Outer garments such as topcoats, overcoats, jackets, or overshoes;
- (3) Clothing that exposes the midriff;

- (4) Shorts of any kind;
- (5) Sleeveless shirts (i.e. “muscle shirts” and “tank tops”);
- (6) Shower shoes (i.e. rubber “flip-flops”);
- (7) Suggestive or otherwise inappropriate clothing (i.e. poorly fitting, slovenly, or uncleanly).

102.3. Prohibited Items. To insure compliance with state law and to promote public safety, the following rules apply to the presence or use of specific items in and around the courthouses within St. Joseph County:

102.3.1. Weapons. No attorney, litigant, witness, or spectator may possess firearms, knives, or other deadly weapons while in or around the courthouses within St. Joseph County without the prior written authorization of the Judge of the Circuit Court or Probate Court or the Chief Judge of the Superior Court. However, a law enforcement officer who is not a litigant in a pending matter and who is appearing as a witness may retain possession of their issued firearm while in the courthouse so long as he or she advises, and receives the permission of, the supervisor of the courthouse security detail upon entering the courthouse or has prior authorization from a Judge of one of the Courts.

102.3.2. Other Items. To avoid disruption during court proceedings, a Judge may prohibit items in the courtroom or in areas in or around a courthouse during hearings or trials including, but not limited to:

- (1) Cameras, video cameras, or any devices capable of audio and/or visual recording;
- (2) Cellular telephones or beepers;

- (3) Newspapers or other periodicals unrelated to the business of the Court; and
- (4) Other items that may be disruptive to the court proceedings.

102.4. Enforcement. The Sheriff of St. Joseph County (hereinafter “Sheriff”), courthouse security personnel, and the bailiffs of each of the Courts have been authorized to monitor and enforce compliance with this Rule.

102.5. Consent to Search. All persons entering any of the courthouses within St. Joseph County are required to pass through a magnetometer/x-ray screening point and to comply with all reasonable requests of courthouse security personnel. By entering a courthouse within St. Joseph County, every person is consenting to the reasonable search of their person and effects to insure that he or she is complying with the requirements of this Rule. The Sheriff, law enforcement officers, or court security personnel may detain any person who they have reason to believe possesses any weapon or other prohibited item in violation of this Rule for a period of time sufficient to obtain name, address, date of birth, social security number, and/or to seize any weapon or other prohibited item.

Rule LR71-TR72-103. Court Clerk.

103.1. Clerk of the Court. The term “Clerk” means the Clerk of the Circuit Court duly elected and qualified under Article 6, Sections 2 and 4 of the Constitution of the State of Indiana. Pursuant to I.C. 33-33-2-1,

the Clerk of the Circuit Court shall also serve as the *ex-officio* Clerk of the Superior and Probate Courts.

103.2. Staffing. The Clerk shall assign sufficient staff to each court in order to effectively and efficiently manage the cases filed with and/or assigned to the respective Courts.

103.3. Clerk's Hours of Operation. The offices of the Clerk designated to receive filings for causes pending in their respective Courts shall be open on all days that any court is in session between the hours of 8:00 a.m. and 4:30 p.m. for all purposes contemplated by these rules. Filings made by electronic filing during these regular office hours shall be considered filed on the date received; filings made after regular office hours shall be considered filed on the next business day that is not a Saturday, Sunday, or legal holiday.

Rule LR71-AR00-104. Court Hours and Scheduling.

104.1. Court's Hours of Operation.

104.1.1. Judicial Days. The Courts shall be in session Monday through Friday, legal holidays excluded, and during such other hours as each court may, from time to time, direct or otherwise post. Unless otherwise occupied by court business or the operational needs of the court, each Court will convene on each judicial day of the calendar term.

104.1.2. Legal Holidays. The Courts will follow the schedule for legal holidays authorized by the Board of Commissioners of St. Joseph County, subject to change due to emergencies or the operational needs of the Court.

104.1.3. Emergency Closure. When weather conditions or other emergencies arise, the individual court may be closed at the direction of the Judge of the Circuit Court of the Probate Court or the Chief Judge of the Superior Court. If a closing is announced, the Court and the Clerk of the Court shall make reasonable effort to notify attorneys and litigants scheduled to attend court on that date or time.

104.2. Daily Calendar. Each regularly presiding Judge will maintain a separate calendar. The calendar of cases set for hearing on a given day will be posted in the Courthouse rotunda, on the Courtroom door, inside the Courtroom, and with the Clerk of the Court.

104.3. Hearing on Matters Other Than Trials. Each Judge shall reserve periods of time for hearing matters other than contested trials, such as pre-trial and post-trial motions, rules to show cause, defaults, uncontested dissolutions of marriage, etc. As necessary to minimize conflicts in scheduling, the Judges shall set these schedules after consultation. Hearings shall be scheduled as follows:

104.3.1. Scheduling Uncontested or Routine Matters. Routine matters, procedural motions, domestic relations applications for provisional relief and contempt proceedings, uncontested petitions for dissolution of marriage, and all other matters appropriate for summary consideration and disposition will be heard on the daily calendar.

104.3.2. Scheduling Contested or Complicated Matters. Other matters that will require a hearing reasonably estimated to last in excess of twenty (20) minutes will be scheduled as the Court's calendar allows. Counsel or a party proceeding *pro*

se should contact the chambers of the assigned judge to arrange for an appropriate hearing date and time.

104.4. Trials. Trial settings will be scheduled by the trial judge. Counsel or a party proceeding *pro se* should contact the chambers of the assigned judge to obtain a trial date, to schedule a pre-trial conference, and/or to request a copy of the trial calendar.

104.5. Prompt Appearance at Hearings and Trials. Prompt appearance at the time scheduled for all hearings and trials is enjoined upon Court, counsel, and parties. Should an occasion arise when counsel or a party proceeding *pro se* can reasonably anticipate that he or she will be tardy for a scheduled hearing, or a scheduled hearing or trial must be rescheduled due to an unanticipated emergency, counsel or the party shall notify the Court immediately.

104.6. Penalties for Failure to Comply. Unless good cause is shown, the failure of counsel or a moving party to comply with this rule or to appear for a scheduled hearing or trial may result in a default pursuant to the Trial Rules and/or may be enforced by direct contempt of court, which may result in a monetary fine or other appropriate penalty.

Rule LR71-AR00-105. Court Sessions and Management.

105.1. Circuit Court.

105.1.1. Court Sessions. The calendar year term of the Circuit Court shall be divided into quarterly sessions as follows:

- (1) Session I shall be conducted during the calendar months January, February, and March;

(2) Session II shall be conducted during the calendar months April, May, and June;

(3) Session III shall be conducted during the calendar months July, August, and September;

(4) Session IV shall be conducted during the calendar months October, November, and December.

105.1.2. **Grand Jury.** The Circuit Court may call a grand jury as provided by I.C. 35-34-2-2.

105.1.3. **Petit Jury.** A petit jury shall be called to serve during each of the sessions of the calendar year.

105.2. **Superior Court.**

105.2.1. **Division Assignments.** From time to time, the Chief Judge will publish a schedule for the calendar year of the Superior Court and its Divisions. The schedule will contain the names of the Judges who are assigned to the various divisions of the Court for each session. The schedule will be posted within the Courthouse and provided to attorneys upon request.

105.2.2. **Petit Jury.** A petit jury shall be called to serve within each Division of the Superior Court.

105.3. Probate Court.

105.3.1. Court Sessions. No sessions of Court shall be published; however, from time to time, the Judge will publish a schedule for the calendar year of the Probate Court and its Divisions.

105.3.2. Petit Jury. If needed, a petit jury shall be called to serve during each of the sessions of the calendar year. The petit jury may be called from the list maintained by the Circuit Court or Superior Court.

Rule LR71-TR40-106. Case Flow and Disposition.

106.1. Assignment of Cases in the Circuit Court.

106.1.1. Civil Assignment List. The Circuit Court shall keep assignment lists for civil cases. When the issues are closed in any civil case where a trial is contemplated, that case shall be placed upon the appropriate assignment list. Cases shall be placed on the assignment lists in chronological sequence according to the date on which the issues are closed.

106.1.2. Closing of Issues in Pending Cases. Where a party or an attorney of a party has a good faith belief that the issues in a case have been closed by the filing of a pleading or otherwise, the party or the attorney may so inform the Court and any opposing counsel in writing and file a copy of the notice with the Clerk of the Court. Opposing counsel shall then have ten (10) days in which to file written objections to such indication that the issues are closed, unless otherwise ordered by the Court. If no such objection is filed the cause shall be placed on the appropriate assignment list.

106.2. Assignment of Cases in Superior Court. All Superior Court cases (except Small Claims and Traffic & Misdemeanor) will be assigned to a particular Judge of the Superior Court immediately upon filing. Each Judge will be responsible for the management of his or her assigned caseload, and will hear all motions, conduct pre-trial conferences, and prepare individual calendars of cases for trial.

106.2.1. Assignment of Civil Cases in Superior Court. All civil cases, including those transferred to the Court from other counties on change of venue, upon being filed with the Clerk, shall immediately be assigned, at random and by computer, by the Clerk to a Judge of the Court for all further action. It shall be the responsibility of the party filing the case, or the party's attorney, to ascertain the Judge to which the case has been assigned. The Chief Judge, pursuant to statute and Local Rule 109, herein, shall have the authority to transfer cases among and between the Judges or to other Judicial Officers, including Magistrate Judges, Senior Judges, Special Judges, and Temporary Judges, in order to balance the assignment of cases to the Judges of the Court and so as to comply with Indiana Supreme Court Administrative Rule 15 and Local Rule 107, that being the Local Caseload Plan for St. Joseph County.

106.2.2. Assignment of Criminal Cases in Superior Court. All felony criminal cases, including those transferred to this Court from other counties on change of venue, upon being filed with the clerk, shall be assigned to the Criminal Trial Division of this Court. The Chief Judge, pursuant to statute and Local Rule 109, herein, shall have the authority to transfer cases among and between the Judges or to other Judicial Officers,

including Magistrate Judges, Senior Judges, and Temporary Judges in order to balance the assignment of cases to the Judges of the Court and so as to comply with Indiana Supreme Court Administrative Rule 15 and Rule LR71-AR1-107, that being the Local Caseload Plan for St. Joseph County.

106.3. All Entries by Assigned Judge. After the assignment of a case to a Judge, all entries and orders, including judgments and orders of dismissal, may be filed with the Clerk, who shall submit the same to the assigned Judge (or, if unavailable, to any sitting Judge) for approval and entry in the court records.

106.4. Listing of Assigned Cases. After the filing of the first responsive pleading, the assigned Judge will cause the case to be placed upon a list to be kept by each Judge of the Court, in which noted cases are subject to call for trial pre-trial conference. Cases may be advanced upon this list by petition to the assigned Judge for good cause shown.

Rule LR71-AR1-107. Joint Local Caseload Allocation Plan for St. Joseph County.

107.1. Caseload Review. Not later than October 1 of each year, a committee composed of the Judge of the Circuit Court, the Judge of the Probate Court, and the Chief Judge of the Superior Court, shall meet in person, telephonically, or by other means and shall evaluate each court's caseload data, as reported by the Division of the State Court Administration.

107.2. Special Circumstances. The committee shall consider in addition to the actual caseload data, any special circumstances relevant to evaluating the various caseloads of the various Courts and Judges in St. Joseph County. These special circumstances shall include such matters as death penalty cases, administrative and special Judge service, availability of physical resources, and any other relevant factors.

107.3. Statistical Deviation. Based upon the foregoing caseload evaluation for each Court within the County, the committee shall determine whether or not a sufficient statistical deviation occurs between the Courts which would warrant a transfer of cases within St. Joseph County from one court to another or a limitation during the following year upon what case types may be filed in certain courts or before certain Judges in order to more effectively and efficiently provide services to the citizens of St. Joseph County.

107.4. Caseload Allocation Plan and Transfer of Cases. In the event the committee determines a significant statistical deviation exists and is likely to continue to exist the following year, the committee shall unanimously adopt a written plan providing for the assignment of cases and/or for the transfer of cases from one Court to another in order to more equally distribute cases among and between the various Courts within St. Joseph County or requiring that certain types of cases only be filed in certain courts or assigned to certain Judges therein. Such transfer of cases or limitation on filing shall take into consideration the specialized jurisdictional attributes of the Probate Court and endeavor to transfer cases that fit within a receiving Judge's statutory jurisdiction. In the event that either cases

transferring in or out of Probate Court are outside the normal statutory jurisdiction of the receiving Judge, the committee shall designate the receiving Judge as a special Judge of the court that retains jurisdiction over the original proceeding. The committee shall also take into consideration the impact of such transfer upon other local agencies such as the Prosecutor's Office, Public Defender's Office, Sheriff's Department, Local Law Enforcement, County Clerk's Office, Probation Departments, as well as the general citizenry and the cost of such transfers. The caseload allocation plan may be memorialized as an appendix to this rule.

107.5. Procedures Following Transfer. Once a case is assigned or transferred pursuant to the caseload allocation plan adopted by the committee into another Court, the case shall be heard and processed as all other cases originally filed within that Court.

Rule LR71-AR00-108. Organization of the Circuit Court.

- 108.1. General Organization.** The Circuit Court shall be divided into two divisions, which shall be known as the South Bend and Mishawaka Divisions.
- 108.2. Magistrate Judges.** Magistrate judges appointed pursuant to statute or otherwise shall hold office at the pleasure of the Judge of the Circuit Court and shall perform such judicial duties as may be allowed by law, as set out in these rules, or as may be assigned by the Judge of the Circuit Court.

Rule LR71-AR00-109. Organization of the Superior Court.

- 109.1. General Organization.** The Superior Court shall be divided into five divisions, which shall be known as the Criminal Trial, Civil Trial, Small Claims, Traffic and Misdemeanor, and Mishawaka Divisions. Each of the Judges of the Superior Court is permanently assigned to the Civil or Criminal Divisions of the Court. Regardless of such assignment under these Rules, each Judge is authorized at all times to conduct hearings and trials in all matters, and to exercise the full jurisdiction of the St. Joseph Superior Court.
- 109.2. Criminal Trial Division.** The Chief Judge shall determine the Judges assigned to the criminal division. All felony cases, as well as all traffic and misdemeanor cases in which a demand has been made for trial by jury, shall be tried in the Criminal Trial Division. The Judge assigned to the Mishawaka Division shall be responsible for the trial of all cases assigned to that Judge. The Chief Judge shall prepare an annual schedule indicating which Judge will be available

in felony cases to approve requests for warrants, to fix bonds, and to conduct arraignments.

109.2.1. Drug Treatment Court. Within the Criminal Division there may be established a Drug Treatment Court for which one or more Judges of the court shall be responsible. Eligibility for the drug treatment court shall be determined by written criteria currently in place, or as hereafter modified. Cases may be assigned to the Drug Treatment Court only upon the consent of the Prosecuting Attorney, defendant, and the Judge assigned to the court, and upon the continuance of the case pursuant to the filing of a standard written agreement for such purposes.

109.3. Civil Trial Division. The Chief Judge shall determine the Judges assigned to the Civil Trial Division. Trials of civil cases, whether by court or by jury (except such cases as are pending in Small Claims Division), ordinarily shall be conducted in the Civil Trial Division. Petitions for temporary or regular civil commitments and for emergency detentions shall be heard in this Division. The Judge assigned to the Mishawaka Division shall be responsible for the trial of all cases assigned to that Judge.

109.4. Traffic and Misdemeanor Division. The Chief Judge shall determine the judicial officers to assign to the Traffic & Misdemeanor Division. This Division shall be responsible for the trial and disposition of traffic violations, criminal misdemeanors, infractions, and city ordinance violations. This Division is further responsible for such classes of violations as may be designated for disposition upon a plea of guilty in a violations bureau. Cases pending in the Traffic &

Misdemeanor Division shall not be deemed assigned to the judge sitting therein, nor any other Judge, except upon proper motion for change of venue.

109.5. Small Claims Division. The Chief Judge shall determine the judicial officer to assign to the Small Claims Division. This division shall be responsible for the trial and disposition of all cases filed in its individual docket and falling within the jurisdiction of the division pursuant to I.C. 33-29-2-1, et seq. This division may publish its own rules of procedure. Cases pending in this division shall not be deemed assigned to the Judge sitting therein, nor to any other Judge, except upon proper motion for change of venue.

109.6. Mishawaka Division. The Chief Judge shall assign at least one Judge to this division, but may assign other judicial officers. The length of service shall be determined by the Chief Judge. The appointment shall not be considered permanent; the Chief Judge shall retain discretionary assignment authority pursuant to I.C. 33-5-40-23, as may be amended from time to time. The Mishawaka Division shall be responsible for the disposition of all cases assigned to it or that Judge. In the event that a Judge is reassigned from this division to the South Bend Division or to any other division of the court, the cases shall remain in Mishawaka and be assigned to the succeeding Judge or Magistrate Judge.

109.7. Magistrate Judges. Magistrate Judges appointed pursuant to statute or otherwise shall hold office at the pleasure of the court and shall perform such judicial duties as may be allowed by law, as set out in these rules, or as may be assigned by the Chief Judge.

109.8. Chief Judge of the Superior Court.

109.8.1. Election of Chief Judge. A Chief Judge, as provided for by I.C. 33-5-40-23, shall be elected for a term of two years by a majority vote of the Judges of the Court. Such elections shall be held no later than the last regularly scheduled Judges meeting in even numbered years. The term of the Chief Judge shall begin on January 1, following his or her election. A vacancy in the office of the Chief Judge shall be filled by a majority vote of the remaining Judges of the court. A Judge may resign the office of the Chief Judge without resigning from the Court and shall be eligible to vote in the election to select a successor.

109.8.2. General Authority and Duties of Chief Judge. The Chief Judge shall have such authority and responsibilities as conferred by statute, Supreme Court Rule, or Local Rule and shall be responsible for the efficient operation of the Court and management of its business. The Chief Judge shall have the authority to assign and reassign Judges between the divisions of the Court and to reassign cases previously assigned. The Chief Judge shall designate another Judge of the Court as acting Chief Judge during any period of the Chief Judge's unavailability or to assist the Chief Judge as may be necessary. The Chief Judge may make various assignments and appointments to boards, commissions, committees, or other such organizations as may be required or in the best interests of the Court.

109.8.3. Specific Authority to Transfer Cases. The Chief Judge may, in addition to the general authority otherwise granted, and in order to effectively and efficiently manage the Court,

transfer cases between the Judges and magistrate judges in order to accommodate speedy trial requests in criminal cases, to handle emergency matters, to join co-defendants or related cases, to transfer all cases pending against a defendant or filed by a plaintiff to a single Judge, to hear dispositive motions, to transfer cases to a Senior Judge, Magistrate Judge, Special Judge, or Temporary Judge, and to make such other transfers and assignments as may be in the best interests of the Court.

Rule LR71-AR00-110. Organization of the Probate Court.

110.1. General Organization. The Probate Court shall be divided into two divisions, which shall be known as the Probate and Juvenile Divisions.

110.2. Magistrate Judges. Magistrate Judges appointed pursuant to statute or otherwise shall hold office at the pleasure of the Judge of the Probate Court and shall perform such judicial duties as may be allowed by law, as set out in these rules, or as may be assigned by the Judge of the Probate Court.

Rule LR71-AR15-111. Court Reporter Services.

111.1. Definitions.

111.1.1. Court Reporter. A Court Reporter is a person who is specifically designated by a Court to perform the official court reporting services for the Court including preparing a transcript of the record.

- 111.1.2. Equipment.** Equipment means all physical items owned by the Court or other governmental entity and used by a court in performing court reporter services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording, storing, and transcribing electronic data.
- 111.1.3. Work Space.** Work space means that portion of the Court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
- 111.1.4. Page.** Page means the page unit of transcript that results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
- 111.1.5. Recording.** Recording means the electronic, mechanical, stenographic, or other recording made as required by Indiana Rule of Trial Procedure 74.
- 111.1.6. Regular Hours Worked.** Regular hours worked means those hours during which the Court is regularly scheduled to work during any given workweek. Depending on the particular Court, these hours may vary from court to court within the County but remain the same for each workweek.
- 111.1.7. Gap Hours Worked.** Gap hours worked means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per workweek.
- 111.1.8. Overtime Hours Worked.** Overtime hours worked means those hours worked in excess of forty (40) hours per workweek.
- 111.1.9. Workweek.** Workweek means a five (5) consecutive day week that consistently begins on Monday and ends on Friday.

111.1.10. Court. Court means the particular court for which the court reporter performs services.

111.1.11. County Indigent Transcript. County indigent transcript means a transcript that is paid for from County funds and is for the use on behalf of a litigant who has been declared indigent by a Court.

111.1.12. State Indigent Transcript. State indigent transcript means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a Court.

111.1.13. Private Transcript. Private transcript means a transcript, including but not limited to, a deposition transcript, that is paid for by a private party.

111.2. Salaries and Per-Page Fees.

111.2.1. Annual Salary. A court reporter shall be paid an annual salary for time spent working under the control, direction, and direct supervision of the Court during any regular work hours, gap hours, or overtime hours.

111.2.2. Non-expedited County Indigent Transcript. The per page fee for one original and one additional copy of a non-expedited county indigent transcript preparation shall be \$3.00 plus a fee of \$10 per 100 pages containing marginal or header notations (e.g. \$10 per 100 pages, \$20 per 200 pages), which fee will be subject to review at a time that rates for federal reporters are increased. Re-orders of an existing transcript shall be one-half price (e.g. \$1.50 per page, with a cost of \$5 per 100 pages containing marginal or header notations).

- 111.2.3. Claim for Preparation.** The court reporter shall submit directly to the County a claim for the preparation of a county indigent transcript.
- 111.2.4. Non-expedited State Indigent Transcript.** The maximum per page fee that a court reporter may charge for one original and one additional copy of a non-expedited state indigent transcript shall be \$3.00 plus a fee of \$10 per 100 pages containing marginal or header notations (e.g. \$10 per 100 pages, \$20 per 200 pages), which fee will be subject to review at a time that rates for federal reporters are increased. Re-orders of an existing transcript shall be one-half price (e.g. \$1.50 per page, with a cost of \$5 per 100 pages containing marginal or header notations).
- 111.2.5. Non-expedited Private Transcript.** The maximum per page fee that a court reporter may charge for one original and one additional copy of a non-expedited private transcript shall be \$3.00 plus a fee of \$10 per 100 pages containing marginal or header notations (e.g. \$10 per 100 pages, \$20 per 200 pages), which fee will be subject to review at a time that rates for federal reporters are increased. Re-orders of an existing transcript shall be one-half price (e.g. \$1.50 per page, with a cost of \$5 per 100 pages containing marginal or header notations).
- 111.2.6. Expedited Transcript.** The maximum per page fee that a court reporter may charge for an expedited transcript shall be as follows, subject to review at a time that rates for federal reporters are increased:
- (1) Overnight: \$6.00 per page;
 - (2) Within three (3) working days: \$4.50 per page.

111.2.7. Reporting of Transcript Fees. Each court reporter shall report at least on an annual basis to the Indiana Supreme Court, Division of State Court Administration, on forms prescribed by the Division, all transcript fees (either county indigent, state indigent, or private) received by the court reporter.

111.3. Private Practice. If a court reporter elects to engage in private practice through recording of a deposition and/or preparing of a deposition transcript and desires to utilize the Court's equipment and work space, and the Court agrees to use of the Court equipment and work space for such purpose, the Court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:

- (1) The court reporter shall at his or her own expense supply paper and covers for the preparation of such deposition transcript;
- (2) The reasonable market rate for the use of equipment, work space, and supplies and the method by which the court reporter is to reimburse the court for the use of said equipment, work space, and supplies;
- (3) That if a court reporter elects to engage in private practice through recording of a deposition and/or the preparing of a deposition transcript, that such private practice shall be conducted outside of regular working hours, unless the time is considered as compensatory time off from regular work hours;
- (4) That the court reporter is to be compensated for gap and overtime hours by compensatory time off regular work hours only when the judge to whom the court reporter is assigned is not performing duties requiring the court reporter's presence;

- (5) It shall be the responsibility of the court reporter to keep accurate time records of regular work hours, gap, and overtime hours to justify their compensatory hours. Hours spent in transcript preparation are not to be counted toward regular hours worked;
- (6) Guilty plea and sentencing hearings shall be reported by computer-aided transcription (CAT) and preserved in accordance with the criminal rules for record retention.

APPENDIX A TO LOCAL GENERAL AND ADMINISTRATIVE
RULES, 100 SERIES

CASELOAD ALLOCATION PLAN

FOR COURTS IN ST. JOSEPH COUNTY, INDIANA

I. Organization of the Courts of St. Joseph County:

As of January 1, 2009, the Courts of St. Joseph County are organized and assigned judicial officers as follows:

(1) St. Joseph Circuit Court – one (1) judge and two (2) magistrate judges;

(2) St. Joseph Superior Court – eight (8) judges and two (2) magistrate judges; and

(3) St. Joseph Probate Court – one (1) judge and three (3) magistrate judges.

II. Designation of Judicial Officers to Hear Civil, Criminal and Juvenile Cases:

(1) Judicial Officers Designated to Hear Civil Cases: Civil Cases (other than small claims matters) shall be heard by the judge and the magistrate judges of the Circuit Court, and by the judges and/or magistrate judges of the Superior Court designated by the Chief Judge of the Superior Court to hear civil cases;

(2) Judicial Officers Designated to Hear Felony Criminal Cases: Felony criminal cases shall be heard by the judges and/or magistrate judges of the Superior Court designated by the Chief Judge of the Superior Court to hear felony criminal cases;

(3) Judicial Officers Designated to Hear Small Claims Cases: Small claims matters shall be heard by the judges and/or magistrate judges of the Superior Court designated by the Chief Judge of the Superior Court to hear small claims matters;

(4) Judicial Officers Designated to Hear Traffic and Misdemeanor Cases: Unless otherwise assigned to a felony criminal court for judicial economy because a defendant has pending felony, misdemeanor and/or probation revocation matters, traffic and misdemeanor matters shall be heard by the judges and/or magistrate judges of the Superior Court designated by the Chief Judge of the Superior Court to hear traffic and misdemeanor matters.

(5) Judicial Officers Designated to Hear Paternity, Delinquency, Dependency, and Adoption Cases: Paternity, delinquency, dependency, and adoption matters shall be assigned to the Judge of the Probate Court unless the Judge assigns the matter to be heard by a magistrate judge of the Probate Court.

(6) Judicial Officers Designated to Hear Title IV-D Cases: Pursuant to LR71-FL00-430 et seq., Title IV-D Cases may be assigned to the Title IV-D Court and heard by a magistrate judge of the Probate Court designated to preside over Title IV-D hearings.

III. Protocol for Assignment of Cases Among the Courts of St. Joseph County:

(1) Civil cases (other than small claims): With the exception of cases that must be assigned statutorily to the Probate Court because of its designation as the court with exclusive jurisdiction over juvenile cases (paternity, delinquency, dependency, adoption, etc.) or to the Circuit Court (license reinstatement, name changes, etc.), civil cases (other than small claims cases) shall be assigned randomly among the judges and/or magistrate judges of the Circuit Court and the Superior Court designated to hear civil matters.

(2) Felony Criminal Cases: With the exception of criminal cases that must be assigned to the Circuit Court by L71-CR2.2-303.1 or 303.2, felony criminal cases shall be assigned randomly among the judges and/or magistrate judges of the Superior Court designated to hear criminal cases. However, and notwithstanding this method of random assignment, in all felony criminal cases, except MR cases, where co-defendants are charged, cases shall be reassigned to a single judge or magistrate judge, as follows: (a) where co-defendants have been equally assigned to different judges, the judge having the lowest assigned cause number shall be assigned/reassigned all co-defendant cases; or (b) in the event that co-defendants have been unequally assigned to different judges, the judge having the greatest number of co-defendants shall be assigned/reassigned all co-defendant cases. Further, the Chief Judge of the Superior Court may reassign cases involving a defendant who has a pending case to the judge presiding over the earliest assigned cause number. The Chief Judge of the Superior Court may reassign MR cases or other felony cases where such reassignment is in the interest of judicial economy or dictated by the weighted caseload balancing requirements.

(3) Small Claims Cases: With the exception of small claims matters filed by the City of Mishawaka, the School City of Mishawaka, and the Town of Osceola, or when otherwise ordered by a judge of the Superior Court, small claims cases shall be assigned to South Bend Division of the Superior Court. For convenience of parties, a small claims case that must be assigned to the South Bend Division may be filed in the Mishawaka Division, but the filing party or counsel shall indicate to the Clerk on the Chronological Case Summary that the matter must be docketed in the South Bend Division, and the Clerk shall promptly forward the pleadings to the South Bend Division for filing and processing.

(4) Traffic and Misdemeanor Cases: With the exception of ordinance or traffic matters filed by the City of Mishawaka, traffic and misdemeanor cases shall be filed in and assigned to the South Bend Division of the Superior Court.

(5) Paternity, Delinquency, Dependency, and Adoption Cases: Paternity, delinquency, dependency, and adoption cases shall be filed in Probate Court.

IV. Exceptions to the Protocol for Assignment of Cases:

(1) Mass Filing of Collection Cases (other than small claims): Upon request and designation by the Judge of the Circuit Court and the Chief Judge of the Superior Court, a lawyer or law firm may be approved to make mass filing of collection cases (other than small claims). Unless otherwise directed by the Judge of the Circuit Court or the Chief Judge of the Superior Court based on weighted caseload balancing requirements or otherwise, cases filed by a lawyer or law firm approved for mass filing shall be assigned to the Circuit Court.

(2) Special Judge or Transfer: Nothing in these local rules shall be interpreted to prevent a party from taking a change of judge or requesting transfer of a case as otherwise authorized by statute or rule of court.

(3) Temporary or Permanent Assignment of Cases: Nothing in these local rules shall be interpreted to prevent the regularly presiding judge of a Court from assigning a case on a temporary or permanent basis to a Magistrate Judge, Special Judge, Senior Judge, Temporary Judge, Judge Pro Tem, Referee, or other duly appointed judicial officer.

(4) Caseload Balancing: Nothing in these local rules shall be interpreted to prevent the Judge of the Circuit Court, the Chief Judge of the Superior Court or the Judge of the Probate Court, either jointly or individually, from reassigning a case for the purpose of caseload balancing based on the weighted caseload criteria or other caseload balancing criteria.

(5) Emergency or Exigent Circumstances: Nothing in these local rules shall be interpreted to prevent the Judge of the Circuit Court, the Chief Judge of the Superior Court or the Judge of the Probate Court, either jointly or individually, from assigning a case based on emergency or exigent circumstances.

V. Authority and Effective Date:

(1) This Caseload Allocation Plan is adopted pursuant to the requirements of A.R. 1 (E) and LR71-AR1-107.1

(2) The effective date of this Caseload Allocation Plan is January 1, 2009.

LOCAL CIVIL RULES FOR ST. JOSEPH COUNTY (200 SERIES)

Rule LR71-TR77-201. Filing, Pleading, and Motions.

201.1. Flat Filing. In order that the Clerk's files may be kept under the system commonly known as "flat filing," all papers presented to the Clerk for filing shall be flat and unfolded. Pleadings shall have no covers or backs and shall be fastened together at the top left-hand corner only.

201.2. Filing with the Clerk. The entry of appearances and the filing of pleadings or other matters not requiring immediate Court action shall be filed with the Court Clerk and not in open Court. A Judge may permit papers to be filed in chambers, in which event he or she shall note thereon the filing date and transmit the papers to the Court Clerk.

201.3. Format of Pleadings. All pleadings, motions, and other papers shall be prepared in accordance with the applicable provisions of the Indiana Rules of Trial Procedure. For the purpose of uniformity and convenience, the following requirements shall also be observed:

201.3.1. Paper. Pleadings, motions, and other papers shall be either legibly printed or typewritten on white opaque paper of good quality at least sixteen (16) pound weight, eight and one-half inches (8 ½") in width and eleven inches (11") in length as required by A.R. 11. All copies shall likewise be on white paper of sufficient strength and durability to resist normal wear and tear.

201.3.2. Style, Margins, Spacing, and Font. Printing shall be on one side of the paper. Margins shall be at least one inch

(1"). If typewritten, the lines shall be double spaced except for quotations, which shall be indented and single-spaced. Type face shall be 12 font size or larger within the body of the document and 10 font size or larger in the footnotes. The font type must be legible and script type shall not be used. Italicized type may be used for quotations, references, or case citations.

201.3.3. Caption. Every pleading shall contain a caption setting forth the name of the Court, the title of the action and the cause number. Where applicable, the pleading shall also contain a Quest or other CMS file number. If a special judge has been assigned to the case, the pleading should also identify the special judge.

201.3.4. Title. All pleadings or motions shall include a title, which shall delineate each topic included in the pleading. For example, where a pleading contains an answer, a motion to dismiss, and a jury request, each topic shall be set forth in the title.

201.3.5. Format and Layout. The separate Court may designate the form and/or layout for pleadings and motions to promote clarity, efficiency, and judicial economy, and to ensure compatibility and appropriate interface with the Odyssey and Quest case management systems. Pleadings not conforming to the designated form or layout may be stricken by the Court.

201.3.6. Signature and Verification. Parties and their counsel are enjoined to comply with the verification requirements of T.R. 11, and either the moving party or the party's attorney of record shall sign all pleadings and motions before filing with the Clerk of the Court. Every motion, petition, or other

pleading filed with the Clerk shall contain the name, organization, physical address, telephone number, and facsimile number of the filing party or an attorney for that party.

201.3.7. Restricted Access. Where a motion, petition, or other pleading is excluded from public access under A.R. 9(G), the parties and their counsel are enjoined to comply with the filing requirements of T.R. 5(G).

201.4. Chronological Case Summary Entry Form. Every written motion, petition, or other pleading subsequent to the original complaint presented to the Clerk for filing shall be accompanied by a Chronological Case Summary (CCS) entry form in duplicate which shall contain the title and cause number of the action, the date, and the proposed entry to appear on the docket. The CCS entry form shall identify the party making the filing, designate each pleading being filed, and shall be signed by counsel of record or the unrepresented litigant. The form shall be date stamped and presented to the Court Clerk, who shall initial the form and return the duplicate to the filing party. Hearing dates for filings requiring Court action shall be obtained from the Court Clerk and incorporated in the CCS entry at the time the motion or other pleading is filed. If no date is obtained prior to the filing, the fact of the hearing should be noted with the date and time left blank. All proposed CCS entries must be examined and approved by the Judge before becoming part of the record. The Judge may modify or amend any proposed CCS entry and will notify counsel of any substantial modification or amendment of a proposed CCS entry.

201.5. Service of Copies. Every motion, petition, or other pleading required to be served by T.R. 5, Indiana Rules of Trial Procedure, shall be served on all counsel of record or unrepresented parties either before it is filed or on the day it is filed with the Court. A copy of the Clerk's CCS entry form of the filing shall also be served on all counsel of record whenever it contains an appearance of counsel or contains a date for Court hearing of the matter. All proposed forms of order left with the Clerk when the Judge is not available shall be submitted in sufficient number so that distribution may be made to all affected parties. Counsel submitting such order shall indicate the method of distribution desired on the Clerk's CCS entry. Service on a Judge may be made by delivering a copy to the Judge's secretary or mailing a copy to the Judge at his or her chambers. Service on a Judge may not be accomplished by facsimile transmission; however, a courtesy copy may be sent to the Judge's chambers by facsimile transmission contemporaneously with service by mail or otherwise.

201.6. Numbers of Copies and Orders. The Clerk shall retain the original of all filings. In cases in which a party or counsel supplies the proposed order or decree, a sufficient number shall be prepared and filed as to provide the Clerk to retain two (2) copies, which shall be filed in the flat file and the record of judgments and orders. Should the party or counsel desire additional copies, a sufficient number of copies should be filed to effectuate that purpose.

201.7. Reports. Reports of appraisers, masters, and commissioners shall be filed with the Court in triplicate. Unless otherwise authorized by the Court, a copy of the report shall be provided on either a floppy

disk or an electronic mail message with a copy of the request attached in digital format.

201.8. Court Files. No Court file nor any part thereof may be removed from the custody of the Court Clerk by any person, including any attorney or Judge of this or any other Court, except upon authorization by the regularly presiding Judge to which the case is assigned and then only upon such terms and conditions as may be provided by him in the Order for authorization. One unalterable and invariable condition of this Order is the written acknowledgment of the authorized person that he has such file in his personal possession.

Rule LR71-AR8-202. Uniform Court and Case Number Designation. All filings shall conform to the requirements for uniform court and case number designation set by Admin. Rule 8. In addition, all filings shall contain the proper court and case designation as described below.

202.1. Court Designation. Pursuant to Indiana Code 33-33-71-2, St. Joseph County, Indiana, constitutes the Sixtieth (60th) Judicial Circuit. The legal names of the courts within the 60th Judicial Circuit are the St. Joseph Circuit Court, the St. Joseph Superior Court, and the St. Joseph Probate Court. All filings shall properly reflect the legal name of the applicable court. Any filing may be amended, rejected, or stricken if it does not contain the proper case name and/or the legal name of the court.

202.2. Case Designation. At the time of filing, the party initiating the case should properly designate the case type.

202.2.1. Designation Upon Filing. The filing party (or the attorney for the filing party) shall designate the correct case type in the cause number line of each summons and complaint before presenting a new filing to the Clerk.

202.2.2. Proper Designations. Case type designations must conform to the requirements of Ind. Admin. Rules 8(B)(3). Since January 1, 2003, “CP” is no longer allowed as a designator for civil plenary cases; “PL” is now the proper designation for these types of cases.

202.2.3. Failure to Designate. If a filing is presented without a case type designation on each summons and complaint, the entire filing may be rejected or stricken. Should a case be accepted with an incorrect designation, the court may order the matter to be redocketed with the correct case type designation and may require that the filing party pay a redocketing fee.

202.2.4. Advice and Assistance. The Clerk or her deputies may provide assistance to the filing party in this regard, but should not be required to make a legal judgment as to the correct case type designation. Any questions or doubts should be referred to a judge or a magistrate judge in the court receiving the filing.

Rule LR71-AR9-203. Access to Court Records.

203.1. Confidential Records. The following information is excluded from public access and is confidential:

- (1) Information that is excluded from public access under Federal Law;

- (2) Information that is excluded from public access under Indiana statute or Court rule;
- (3) Records that are sealed by Federal or state law or by court order;
- (4) All personal notes and email deliberative material of judges, jurors, court staff, and judicial agencies, including without limitation the Adult Probation Department, the Juvenile Probation Department, and the Domestic Relations Counseling Bureau, whether maintained in electronic or paper format;
- (5) All information recorded in a personal data assistant (PDA) or other electronic organizer or calendar system, whether maintained in electronic or paper format;
- (6) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal under Ind. Code 5-14-3-4(b)(7);
- (7) Advisory or deliberative material created, collected, or exchanged by, between, or among Judges, including notes, journals, or minutes of Judge's Meetings;
- (8) Information excluded from public access by a specific court order.

203.2. Access to Confidential Records. Information that is excluded from public access and is confidential may not be accessed without prior written authorization of the Judge who is assigned to a particular matter or is responsible for supervising that office or department that created, maintained, or archived the information. In some instances, access will require prior written authorization from the Judges of the Circuit Court and the Probate Court and the Chief Judge of the

Superior Court; in other instances, access will require written authorization from all the Judges of the Circuit, Probate, and Superior Courts.

Rule LR71-TR3.1-204. Appearance and Withdrawal of Appearance of Counsel.

204.1. Appearances. Counsel and unrepresented parties appearing after the filing of the original complaint shall forthwith notify all other counsel of record and unrepresented parties of such appearance and file proof of such notice. Each counsel or party shall file an appearance form (or its equivalent) that includes a mailing address and telephone number. The notice may include a post office box, but must include a physical street address to allow for proper service of process or other notification by the Court.

204.2. Withdrawal of Appearance. Unless authorized by the party in open Court or in writing or upon appearance of other counsel, an attorney will be permitted to withdraw his appearance for a party only after filing a Motion to Withdraw and setting the matter for hearing not fewer than fourteen (14) days from the date of filing. If a trial date has already been set, a motion to withdraw appearance must be filed at least thirty (30) days prior to that date unless the attorney has leave of the court to file in a shorter amount of time.

204.3. Service of Notice to Withdraw. The attorney must present to the Court adequate proof of notice to his client, as well as all other counsel and unrepresented litigants, of the intent to withdraw and of any impending pre-trial, hearing, or trial dates. The notice to his client shall be by postage prepaid, certified mail, return receipt

requested and received or returned by the Postal Service undeliverable or refused addressed to the last known address of the client.

204.4. Contact Information. In cases where the withdrawal of appearance shall leave the client unrepresented, the Motion to Withdraw must contain the address and, if known, telephone number of the client where service of documents can be delivered or other notice can be provided. As required by AR 9(G), this contact information may be designated as confidential and excluded from public access.

Rule LR71-TR41(E)-205. Dismissal for Lack of Prosecution.

205.1. Initiated by Court. Rules to show cause why a cause should not be dismissed for lack of prosecution pursuant to T.R. 41(E) will be routinely issued and served upon affected parties and counsel by ordinary mail or by personal delivery in all cases in which no entry has been made for six months. Records of the setting of cases for trial and motions for continuance will not be considered as entries tolling the time.

205.2. Initiated by Parties. Nothing in Rule 205.1 above shall affect the right of any party to file a motion pursuant to T.R. 41. Unless otherwise directed by the regularly presiding Judge, a party filing a motion for dismissal pursuant to T.R. 41 shall request that the Court set the matter for hearing.

Rule LR71-TR12-206. Pleading and Motions under Trial Rules 12 and 56.

- 206.1. Supporting Memorandum of Law.** All pleadings and motions filed pursuant to Trial Rules 12 and 56 shall be accompanied by a separate supporting brief. An adverse party shall have thirty (30) days after service of the motion in which to serve and file an answer brief. Subject to Court approval, the moving party may file a reply brief. With regard to all other motions or matters submitted to the Court, and so long as consistent with Indiana Rules of Procedure, an adverse party wishing to respond shall do so within fifteen (15) days of service. Each motion shall be separate, while alternative motions filed together shall each be identified on the caption. Failure to file an answer brief or reply brief within the time prescribed shall be deemed a waiver of the right thereto and shall subject the motion to summary ruling.
- 206.2. Hearing; Hearing Date; Opposing Memorandum.** Notwithstanding any other rule of court, all T.R. 12 and 56 motions shall be set for hearing by the moving party at the time of filing unless otherwise ordered by the Court. Unless otherwise authorized by the Court, the hearing shall be scheduled for a day not fewer than fourteen (14) days after the time period allowed for filing of briefs as specified in Rule 206.1 *supra*.
- 206.3. Waiver of Hearing; Stipulation of the Parties.** Adverse parties may stipulate that a T.R. 12 or 56 motion may be ruled upon by the Court without a hearing thereon, in which event the motion and stipulation shall be brought to the personal attention of the Judge by counsel or by a party proceeding *pro se*.

206.4. Required Notices to Parties.

206.4.1 Notice to Parties in Mortgage Foreclosure (MF) Causes of Action. A party filing a mortgage foreclosure (MF) cause of action shall cause to be served on the resident a copy of the Notice Concerning Mortgage Foreclosure, which is attached hereto and made a part hereof as Appendix A. Should the plaintiff fail to comply with the rule, the Court may refuse to enter default judgment, refuse to grant judgment on the pleadings or take similar action until compliance is demonstrated. Additionally, should plaintiff's failure to comply with this rule result in additional costs to the defendant, the Court may order the plaintiff to pay reasonable expenses, including attorney fees, that are related to the plaintiff's noncompliance. See also, Ind. Code 32-30-10.5 et seq.

206.4.2 Notice to Unrepresented Parties Regarding Trial Rule 56 Motions. Notwithstanding any other rule of court, if a party is proceeding *pro se* and an opposing party files a motion for summary judgment, counsel for the moving party must serve a notice upon the unrepresented party as set forth in Appendix B, which is attached hereto and made a party hereof.

206.5. Appearance by Counsel at Scheduled Hearings. Whenever the Court schedules a hearing on a motion pursuant to Trial Rule 12 and/or 56, counsel for all represented parties shall appear in person or by local co-counsel at such hearing.

Rule LR71-TR55-207. Default Judgments.

- 207.1. Proper Service.** At the time of the request for entry of a default judgment under T.R. 55, the moving party must demonstrate that service has been perfected on the party or parties against whom default is sought.
- 207.2. Affidavit for Judgment by Default.** At the time of filing of a motion for default judgment or at the time of a hearing scheduled for entry of a default judgment, the moving party shall file an affidavit indicating that the party or parties against whom default is sought is not a member of the military service, is neither a minor nor incompetent, and is not institutionalized.
- 207.3. Affidavit of Attorney Fees.** At the time of filing of a motion for default judgment or at the time of a hearing scheduled for entry of a default judgment, a moving party who is requesting an allowance of attorney's fees shall file an affidavit executed by the attorney requesting the fee. The affidavit shall be in a form and substance to enable the Court to determine if attorney's fees are appropriate, and if so the reasonable amount of fees. The affidavit shall set forth the authority for the Court to award attorney's fees (i.e., statute, contract, etc.) and the basis upon which the proposed fees were computed (i.e., the hourly rate, the number of hours employed or anticipated to be employed in obtaining and enforcing a judgment herein). In the absence of an affidavit or sworn testimony in lieu thereof, no attorney's fees shall be allowed.

Rule LR71-TR26-208. Discovery Requests.

208.1. Filing with the Court. As envisioned by the Trial Rules, requests for discovery shall be served upon the parties and should not be filed with the Court unless in connection with a dispute concerning compliance with prior discovery requests. The procedure for addressing discovery disputes is outlined in Rule 208.4 below.

208.2. Format of Discovery Requests. Whenever agreed by the parties or otherwise ordered by the Court, a party shall forward simultaneously with the hard copy discovery request (interrogatories, requests for production, requests for admissions, or other requests for discovery) either a floppy disk or an electronic mail message with a copy of the request attached in digital format. Otherwise, an original and two duplicate copies shall be prepared and served on the party required to answer.

208.3. Interrogatories. All interrogatories to parties propounded pursuant to T.R. 33 shall be prepared as follows:

- (1) The propounding party or the attorney of record for the propounding party shall sign and date the interrogatories as of the date of service;
- (2) After each interrogatory, sufficient blank space shall be left by the propounding party as is reasonably anticipated may be required for the responder's typewritten answer. If additional space is required for an answer, the responder shall attach supplemental pages, incorporated by reference, to comply with the spirit of T.R. 33.
- (3) Additional space shall be left by the propounding party at the close of the interrogatories for the signature and

appropriate typed oath or affirmation to be supplied by the responder.

(4) The responding party shall type the requested answers, supply the jurat, and serve the original and one duplicate on propounding counsel.

208.4. Discovery Disputes. To promote the orderly and expeditious handling of cases to trial readiness, counsel shall attempt in good faith to resolve all disagreements between or among themselves concerning the necessity for and scope of discovery, the necessity to seek sanctions, and/or protection against discovery under T.R. 26 through T.R. 37. After personal consultation and good faith attempts to resolve differences as to the foregoing matters, counsel for any or all parties may move to compel discovery, invoke sanctions, or seek protection against discovery as aforesaid. As a part of such motion, the party shall recite the date, time, and place of the personal consultations and the names of the participants. If counsel for any party advises the Court in writing that counsel for any other party has refused or delayed consultation hereby contemplated, the Court shall take such action as is appropriate to preclude, obviate, or avoid further delay.

Rule LR71-TR16-209. Pre-trial Procedures.

209.1. Purpose of Pre-trial Procedure. This rule is intended to accomplish the original purpose of pre-trial procedure – to simplify the issues, make cases easier, quicker, and less expensive for the Court, lawyer, and litigant and to alleviate the burden of ceremonial detain and to aid the efficient preparation of a case.

209.2. Pre-trial Conference. A pre-trial conference of Court and counsel may be scheduled by the Court on its own motion or at the request of counsel for any party in any civil case in which, in the discretion of the Court, possible problems can be identified, the course and progress of the case, the necessity, sequence, and scope of discovery should be anticipated, planned, scheduled, or estimated for the orderly and expeditious handling of it by Court and counsel. At the pre-trial conference, the Court may designate deadlines for discovery, dispositive motions, or alternative dispute resolution. The Court may also provide the parties with proposed dates for trial, additional pre-trial conferences, and/or require the filing of a pre-trial order. The Clerk shall endeavor to give at least thirty (30) days notice of the initial pre-trial conference to the parties.

209.3. Alternative Dispute Resolution. On the Court's own motion or initiative, the parties may be required to attempt alternative dispute resolution (ADR). Such ADR efforts may include, at the Court's discretion, mediation and/or settlement conferences and may require one or more sessions or sessions lasting a specific amount of time.

One or more of the parties may request that the Court order the parties engage in ADR. Such a request must be in writing and must be accompanied by a memorandum informing the Court of the nature of the case, the attorneys or unrepresented litigants involved, and a history of the settlement negotiations that have taken place to that date and that the previous settlement negotiations made in good faith have failed.

At any mediation or settlement conference, counsel for each party shall be present, in person, and each party or a designated representative having complete authority to settle the matter in

question shall be present in person. Upon request and by leave of court, a party or representative of a party may be allowed to participate in said settlement conference by telephone in lieu of a personal appearance. Should any party or counsel for any party violate the requirements of this rule concerning attendance, the Court may impose sanctions.

209.4. Adequate Preparation for Pre-trial Conference. The purpose of the pre-trial conference being to narrow and simplify the issues for trial and to expedite the trial, counsel shall report for such conference with the Judge after full preparation including an adequate meeting of counsel as contemplated by T.R. 16(c). In all cases counsel shall be prepared to indicate to the Court whether the case may be tried to a jury of six and whether the Judge may conduct all of the voir dire examination of prospective jurors or the initial voir dire examination with supplemental inquiry by counsel.

209.5. Completion of Discovery. In cases in which a preliminary pre-trial conference has been held under Rule 12(b), discovery shall be made in accordance with the scheduling thereof then ordered. In cases in which no preliminary pre-trial conference has been held, all discovery shall be completed prior to the pre-trial conference and no discovery shall be conducted thereafter unless, upon motion or stipulation showing good cause therefore, an order is entered permitting further discovery within time to be prescribed by the Court.

209.6. Pre-trial Readiness Conference. At least ten (10) days prior to trial, the Court may set a Readiness Conference. In addition to each party proceeding *pro se* and counsel for each of the parties, the

Court may order that one or more of the parties themselves attend the Readiness Conference. The purpose of the Readiness Conference is to simplify the issues anticipated at trial, and the Conference will include a determination of the parties' readiness to proceed to trial, the progress of the parties in obtaining stipulations of fact and authenticity of exhibits and, if appropriate, the willingness of the parties to waive jury trial. Where the parties have filed a written stipulation signed by all parties addressing these issues and confirming the trial date, the Court in its discretion may vacate the Readiness Conference.

209.7. Attendance by Trial Counsel Required. Unless otherwise directed by the Court, each pre-trial conference shall be attended without exception by any party proceeding *pro se* and at least one of the attorneys for each of the parties who will participate in the trial of the case and who shall be authorized to deal comprehensively with all subjects on the agenda. With prior approval of the presiding Judge, an attorney may appear telephonically. Sanctions for failure to comply with this rule shall be deemed appropriate.

209.8. Failure to Attend. Failure to attend and adequately participate in pre-trial conferences as intended by T.R. 16 may result in reassignment of the cause to the bottom of the appropriate assignment list, issuing an order pursuant to T.R. 41(E), and/or the imposition of appropriate sanctions.

209.9. Setting for Trial. Civil cases may be set for trial at the pre-trial conference or as otherwise directed by the assigned Judge.

Rule LR71-TR39-210. Scheduling Trials.

- 210.1. Trial Settings.** All cases scheduled for trial shall be ready for trial on the date scheduled unless otherwise directed by the Court.
- Where multiple trials are set on one day, all trial settings shall be considered first settings and the parties shall be ready for trial on the date scheduled unless the parties have been advised of a notice of priority as described in Rule 210.2 below.
- 210.2. Notice of Priority.** At the time of setting the case for trial, upon motion of either party and for good cause shown, the Court may order that the parties are entitled to notice of priority. Where notice of priority has been ordered for multiple trials set on the same day, the case assigned a second setting shall stand for trial if the parties are given forty-eight (48) hours prior notice and cases assigned a third subsequent setting shall stand for trial if the parties are given seven (7) days notice.
- 210.3. Continuances.** All motions for continuances shall be in writing and shall set forth specifically the grounds asserted for such motion.
- Unless otherwise directed or excused by the Court, all attorneys of record and parties proceeding *pro se* shall appear before the Court on the date of the trial setting. The Court may assign a new trial setting on the date of the original trial setting, or on the date a continuance is granted, or as otherwise directed by the Court.
- 210.4. Imposition of Costs for Late Settlement.** If a civil case is settled less than forty-eight (48) hours prior to the time it is scheduled for trial, or is settled after 10:00 a.m. on the Friday prior to a Monday trial setting (or a Tuesday setting if the intervening Monday is a legal

holiday), any costs incurred by the Court as a result of the late settlement of the case shall be divided evenly among the parties and ordered to be paid by them.

Rule LR71-TR47-211. Jurors.

211.1. Jury Lists. The Court will maintain lists of petit jurors who are subject to call during any session of the Court's calendar year term. Such juror lists will contain brief biographical data concerning each member of the panel. Prior to trial, the Judge will provide counsel with a list of the petit jurors called for the trial of that particular case, juror biographical data, and a juror seating chart. Juror lists and biographical information shall be confidential.

211.2. Alternate Jurors. By agreement of the parties or on order of the Court, alternative jurors may be selected and seated, selection thereof to be made after the jury itself has been selected. All jurors, both regular and alternate, shall be sworn as a panel. The parties may also agree to waive the selection of alternate jurors.

211.3. Special Venire. The Court may call a special venire as provided by statute.

211.4. Voir Dire Examination. The Court may conduct the entire voir dire examination of prospective jurors or may permit counsel to do so. The Court shall conduct such portion of the voir dire examination as the parties shall stipulate. If the Court conducts the entire examination, counsel shall be given an opportunity to suggest

supplemental questions or lines of inquiry. Further voir dire examination shall be conducted pursuant to the Indiana Jury Rules.

211.5. Passing and Acceptance of Jurors. Unless otherwise approved or directed by the Court, the one pass rule shall be followed; that is, the passing of an individual juror following the voir dire examination of a panel of prospective jurors of which that juror was a member shall constitute an acceptance of that juror by the party so passing. Challenges shall be made at the bench outside the hearing of the prospective jurors and may be made by use of slips of paper of uniform size or as otherwise directed by the Court.

Rule LR71-TR51-212. Trial Procedures.

212.1. Exhibits.

212.1.1. Marking in Advance. All exhibits shall be marked in advance of trial or during recesses in the trial in accordance with the practice of the court reporter so that the trial is not delayed for the marking of exhibits.

212.1.2. Custody of Court Reporter. After being marked for identification and offered into evidence, whether or not admitted into evidence, all exhibits and proposed exhibits necessary to the record on appeal shall be placed in the custody of the Official Court Reporter who shall be responsible for their safekeeping until otherwise ordered by the Judge.

212.1.3. Return to Parties. Any model, diagram, exhibit, or proposed exhibit shall be returned to the party offering it upon request to the reporter after the time for appeal has elapsed

or the possibility of further appeal is exhausted, unless the Court otherwise orders.

212.1.4. Disposal. Where no request for the return of exhibits or proposed exhibits is made within ninety (90) days of final judgment, the same may be disposed of by the reporter as the Court may direct.

212.2. Instructions Requested at Commencement of Trial. All requests for special instructions tendered in accordance with T.R. 51 shall be submitted to the Court not later than the commencement of the trial or in advance of trial if ordered by the Court. The Court shall, in the interests of justice, permit the tender of additional instructions during the trial on matters which could not have been reasonably anticipated in advance of trial. Requests for special instructions shall contain citations to supporting authorities. Instructions shall be exchanged by counsel as directed by the Court.

212.3. Objections to Admissibility of Evidence. All objections to the admissibility of evidence or to procedure during trial shall be made at the bench in sidebar conference outside the hearing of the jury.

Rule LR71-TR77-213. Proposed Orders.

213.1. Matters in Which Proposed Orders Required. Prior to entry by the Court of orders granting motions or applications, the moving party or applicant (or his or her attorney) shall, unless the Court directs otherwise, furnish the Court with proposed orders in the following matters:

- (1) enlargement of time;
- (2) continuance;
- (3) default judgment;
- (4) compel discovery;
- (5) dismissal;
- (6) appointment of receiver;
- (7) appointment of guardian;
- (8) restraining order, temporary, or permanent injunction;
- (9) immediate possession of real estate;
- (10) immediate possession of personal property;
- (11) findings of fact and conclusions of law;
- (12) petition for certification of interlocutory appeals;
- (13) staying further proceedings by reason of bankruptcy, appeal, or other cognizable grounds;
- (14) withdrawal of appearance of counsel;
- (15) such other orders, judgments, or decrees as the Court may direct.

Unless otherwise directed by the Court as provided by Rule 213.5 below, this rule does not apply to judgments on general verdicts of the jury, to judgments rendered following trial to the bench, or to matters taken under advisement by a Court.

213.2. Form of Proposed Order. Any proposed order shall be a document that is separate and apart from the motion or application to which it relates and shall contain a caption showing the name of the court, the case number assigned to the case, and the title of the case as shown by the complaint pursuant to Rule LR71-AR8-201. If there are multiple parties, the title may be shortened to include only the first name plaintiff and defendant with appropriate indication that

there are additional parties. The proposed order shall be on white paper, 8 ½" x 11" in size, and each page shall be numbered. The last page of the proposed order shall contain a line for the date, either "Dated ____" or "Signed on the date filemarked hereon." On the last page there also shall be a line for the signature of the Judge under which shall be typed "Judge, St. Joseph [Circuit or Superior or Probate] Court." If the proposed order contains a recommendation from a Magistrate Judge, the last page shall have a line for the signature of the Magistrate Judge under which shall be typed "Magistrate Judge, St. Joseph [Circuit or Superior or Probate] Court," to the left of which shall be the following, "So Recommended:" and beneath and to the left of which shall be typed, "Approved. So Ordered." To allow compliance with the notice requirements of Rule 72(D), Indiana Rules of Trial Procedure, the lower four (4) inches of the last page of the proposed order shall be left blank. The proposed order shall also include a prepared proof of notice under T.R. 72(D), and in preparing such a notice the filing party shall complete all portions of the prepared proof of notice.

213.3. Copies. All proposed orders shall be submitted in an original plus a number of copies equal to one more than the number of pro se parties and attorneys of record contained in the prepared proof of notice under T.R. 72(D) required above.

213.4. Proposed Orders on Motions for Summary Judgment. The Court may require that the attorney for the prevailing party prepare a form of order on a motion for summary judgment in accordance with the provisions of T.R. 56. A proposed order on a motion for summary judgment may contain the language called for in T.R. 56(C) that

there is not just reason for delay and directs entry of final judgment as to less than all the issues, claims, or parties.

213.5. Orders Following Other Hearings. As directed by the Court, a party or an attorney for a party shall prepare a proposed order based on the decision rendered by the Court. The party so directed shall prepare the proposed order in a timely manner and, upon filing, shall advise the chambers of the applicable judge that the proposed order has been prepared and filed. Unless otherwise directed or given leave of the Court, proposed Orders in emergency matters shall be filed within forty-eight (48) hours after a hearing; proposed Orders in other matters shall be filed within seven (7) days as computed by Ind. Trial Rule 6.

Rule LR71-TR53.1-214. Matters Under Advisement.

214.1. Judges. Each Judge will endeavor to rule promptly on all matters submitted for his or her determination. However, if ruling is reserved in a matter and a decision has not been received by counsel or a party proceeding *pro se* as the times fixed by Indiana Trial Rules 53.1, 53.2, 53.3, and 53.4 approach, counsel or the *pro se* party are encouraged and invited to contact the chambers of the appropriate Judge and remind him or her of the approaching deadline.

214.2. Magistrate Judges. Where a magistrate judge has been assigned issue recommendation in a pending matter, and a decision has not been received by counsel or a party proceeding *pro se* as the times fixed by Indiana Trial Rules 53.1, 53.2, 53.3, and 53.4 approach,

counsel or the *pro se* party are encouraged and invited to contact the chambers of the assigned magistrate judge and remind him or her of the approaching deadline. In the alternative, counsel or the *pro se* party are invited to contact the chambers of the regularly presiding Judge of the Circuit Court or Probate Court, or Chief Judge of the Superior Court, as appropriate.

Rule LR71-TR76-215. Change of Venue.

215.1. **Payment of Transfer Fee.** When a change of venue from the County is granted, all accrued costs and the fee for transfer must be paid to the Clerk by the moving party within ten (10) days after the transfer order is entered.

215.2. **Failure to Pay Fee.** In the absence of such payment, the movant will be deemed to have abandoned the motion so the Clerk will not perfect the change, the cause will be restored to the docket of this Court, and this Court shall resume general jurisdiction of the cause in accordance with T.R. 76.

Rule LR71-TR79(H)-216. Special Judge Selection.

216.1. **Naming a Panel.** When a panel of Judges is to be named under T.R. 79(H), the Court shall appoint a panel consisting of any three (3) judicial officers from the Circuit, Superior, or Probate Courts, unless a statute, rule, or special circumstance requires a panel to be named in another manner.

216.2. Strikes. Each party shall be afforded an opportunity to strike from the panel so named. The moving party shall strike within seven (7) days from the time the Clerk mails the panel or the Court notifies the moving party of the panel in open court. The nonmoving party or the Clerk in an *ex parte* proceeding shall strike within seven (7) days from the date of the first strike.

216.3. Failure to Strike. Failure of a moving party, a nonmoving party, or the Clerk to strike shall be treated as provided in T.R. 79(F).

216.4. Failure of Special Judge to Appear and Qualify. In the event a Special Judge fails to appear and qualify after being assigned a case, the case shall return to the regularly presiding judge for the appointment of another panel as outlined in Rule 216.1 above.

216.5. Discontinuation of Service as Special Judge. In the event a special judge who has assumed jurisdiction thereafter fails to act or notifies the parties that he or she no longer can serve as special judge, the regularly presiding judge of the court where the case is pending shall assume jurisdiction, provided such judge has not previously served in the case and is otherwise eligible to serve. If the regularly presiding judge cannot assume jurisdiction under this section, and the parties have not stipulated to the appointment of a successor under T.R. 769(D), the regularly presiding judge may name a panel as provided by Rule 216.1 above or may refer this case to the Indiana Supreme Court for appointment of a Special Judge.

Rule LR71-TR63-217. Senior Judges, Temporary Judges, and Judges Pro Tempore.

All routine appointments of Senior Judges, Temporary Judges, and Judges Pro Tempore shall be made by the Judge of the Circuit Court or the Probate Court, or the Chief Judge of the Superior Court.

Rule LR71-AP9-218. Appellate Records.

When an appeal is initiated by the filing of a Notice of Appeal pursuant to Appellate Rule 2, Indiana Rules of Appellate Procedure, and a transcript of all or any part of the evidence is sought for the record on appeal, the party or counsel filing the Notice shall contemporaneously personally deliver a copy of the Notice to the court reporter, shall advise the reporter of the deadline for preparation of the record, and shall arrange to pay the reporter for the preparation of the transcript.

Rule LR71-TR69-219. Proceedings Supplemental; Other Collection Remedies.

219.1. Post-Judgment Proceedings. Post-judgment proceedings shall not be instituted until ten (10) calendar days have elapsed since the entry of a final decree or judgment in the records of the Clerk of the Court. The Court may waive this requirement where it is shown that a party will be unduly harmed by its enforcement or where a rule of court or statute specifically provides otherwise.

219.2. Notification of Appearance; Local Counsel. If at the time of filing of a proceedings supplemental or any time thereafter, counsel for the moving party or a party proceeding *pro se* determines that he or she will not attend the hearing in person, the counsel or the moving party shall notify the Court in writing of the substitute or local counsel who

will be in attendance at the hearing. Failure to comply with these notification procedures may be enforced by direct contempt of court.

219.3. Special Post-Judgment Procedures. Unless an emergency or other good cause is shown, any party filing for an extraordinary collection remedy (e.g., account freeze, employment information, or garnishment) shall have filed previously a proceedings supplemental and interrogatories responses, as appropriate.

219.4. Penalties for Failure to Comply. Unless good cause is shown, the failure of counsel or a moving party to comply with this rule or to appear for a scheduled hearing on proceedings supplemental may be enforced by contempt of court, and may result in a monetary fine or other appropriate penalty.

Appendix A

NOTICE REGARDING MORTGAGE FORECLOSURE

GET HELP. GET HOPE.

FROM THE
INDIANA HOUSING & COMMUNITY DEVELOPMENT AUTHORITY
AND ITS
INDIANA FORECLOSURE PREVENTION NETWORK

Your mortgage lender has filed to foreclose on your home. According to Indiana law, you *may* be entitled to a court-ordered settlement conference. This provides an opportunity for you and your lender to negotiate a “foreclosure prevention agreement” that may allow you to keep your home.

If you want to take advantage of this right, you must notify the Court of your intention no more than 30 days after this Notice was served. You may, but are not required to, notify the Court by signing this Notice where indicated and mailing or delivering it to the appropriate Court at either 101 S. Main Street, South Bend, IN 46601 or 219 Lincolnway West, Mishawaka, IN 46544, as indicated on the Summons. You should also send a copy of the signed Notice to the lender’s attorney at the address shown in the Summons.

If you choose to participate in a settlement conference, the Court will schedule it to take place at least 25 days, but no more than 60 days after the date of this Notice. You have the right to be represented by an attorney or assisted by a mortgage foreclosure counselor, either in person or by telephone, at the settlement conference.

We urge you to contact the Indiana Foreclosure Prevention Network (the “Network”) to assist you in this process. The Network will help you find a foreclosure prevention counselor and/or an attorney who is knowledgeable in the foreclosure process. This is a free and confidential service that is provided by the State of Indiana and coordinated by the Indiana Housing and Community Development Authority. You can reach the Network by calling 1-877-GET-HOPE (1-877-438-4673) or by visiting www.877GetHope.org.

Mortgage foreclosure is a complex process. People may approach you about “saving” your home. You should be careful about any such promises, especially if you are asked to pay for their services. If you believe that you have been a victim of a “foreclosure rescue scam,” you should contact the Office of the Attorney General’s Home Owner Protection Unit by calling 1-800-382-5516.

Date of Notice: _____

I want to participate in a foreclosure prevention settlement conference:

Sign Here: _____

Printed Name: _____

Date Signed: _____

Case No. _____ *(please insert # from Complaint)*

Developed and prescribed by IHCD as required by P.L. 105-2009r (St. Joseph County Version, 8/1/2009)

Appendix B

NOTICE REGARDING SUMMARY JUDGMENT MOTION

READ THIS NOTICE AND THE ENCLOSED PAPERS – A MOTION FOR SUMMARY JUDGMENT HAS BEEN FILED AND, IF UNOPPOSED, THIS MOTION MAY RESULT IN JUDGMENT BEING ENTERED AGAINST YOU WITHOUT A HEARING OR TRIAL.

The Courts of St. Joseph County, Indiana require that this notice be sent to you about the motion for summary judgment that was filed by the opposing party. This notice does not contain legal advice, but does provide important information about your legal options. Please read it carefully.

The opposing party has filed a motion for summary judgment pursuant to Indiana Trial Rule 56(C). The motion alleges that the facts are not in dispute and the Court can rule as a matter of law. The motion asks the Court to enter judgment in favor of the opposing party without a trial.

As you are not represented by counsel, you are hereby advised of your obligation to respond to the summary judgment motion. Your previous answer, denial or even counter-claim in response to the original complaint is not sufficient to defend a motion for summary judgment. Unless you submit your own affidavits (or other documentary evidence) or a response that specifically identifies information within the existing court records that contradict the factual assertions of the evidence designated in the motion for summary judgment and supporting materials, any factual assertions in our motion and supporting documentation will be accepted by the Court as true. In essence, your failure to respond to the pending motion for summary judgment would be equivalent to failing to present any evidence in your favor at a trial.

If you wish to file a response to the motion, the Court must receive your response within thirty-three (33) days after your opponent's motion was mailed to you. Failure to meet this timeframe will result in the Court being unable to consider your response or any attachments thereto.

Either party may request a court hearing on the summary judgment motion. A written request for a hearing must be received by the Court no later than ten (10) days after the response was filed or is due. The hearing will not be a trial, and neither party will be able to present evidence at the

hearing. However, either party may make legal argument and refer to the evidence designated with the summary judgment motion or with any response. If no request for a hearing is filed with the Court, the Court may decide the motion without a hearing based on the affidavits and documents filed by the parties.

Any response or request for hearing must be served (or mailed) on the attorney for the opposing party. A response (or other pleading) filed with the Court must include a statement that you have complied with this requirement. Your statement may be in the following form: "I delivered a copy of this response to (Attorney Name) by United States Mail on this ____ day of _____, 20____."

As with any legal matter, you may wish to consult with and/or retain an attorney to represent you in this lawsuit and to assist you in responding to our motion for summary judgment.

[If appropriate under the Federal Fair Debt Collection Act, the following identifying information should be included:

Notice:

Notice Provided by:

Attorney Name

Law Firm (if any)

Address

Telephone Number

Our Law Firm is a debt collector. This Notice is provided as part of an attempt to collect a debt, and any information obtained by us will be used for that purpose. As we represent an opposing party, we cannot provide you with legal advice.]

LOCAL CRIMINAL RULES FOR ST. JOSEPH COUNTY (300 SERIES)

Rule LR71-CR00-301. Criminal Cases.

301.1. **Intent of the Local Criminal Rules.** Criminal cases shall be governed by this rule which is adopted to conserve the time of Court and counsel and to expedite and assure the disposition of criminal cases within the constraints imposed by C.R. 4 and is intended to provide a routine procedure for the advancement of cases from filing to disposition.

301.2. **Balancing of Interests.** The legitimate interests of all civil litigants and the prompt and orderly dispatch of all civil litigation in the Circuit Court will be given preference subject only to such priority of disposition as is from time to time required for criminal cases by applicable rules of Indiana Trial Procedure, rules of the Indiana Supreme Court, and the requirements of the Constitutions of the United States and the State of Indiana to preserve to criminal case defendants all rights thereby conferred or guaranteed.

Rule LR71-CR21-302. Application of Local Rules.

The local administrative and trial rules shall apply to all criminal proceedings so far as they are not in conflict with any specific local rule adopted for the conduct of criminal proceedings, which are enumerated hereafter.

Rule LR71-CR2.2-303. Assignment of Criminal Cases.

303.1. **Grand Jury Proceedings and Indictments.** The Circuit Court shall call and conduct all Grand Jury proceedings. Except as provided in

Rule 303.2 below, indictments issued by the Grand Jury shall be filed on a random basis in equal numbers between the Circuit and Superior Courts.

303.2. Felony Nonsupport and Welfare Fraud. All criminal proceedings, whether by information, indictment, or by transfer from another county, alleging violation of I.C. 35-43-5-7 (welfare fraud), I.C. 35-43-5-7.1 (Medicaid fraud), I.C. 35-43-5-7.2 (children's health insurance fraud), or I.C. 35-46-1-5 (nonsupport of a dependant child), shall be assigned to the Circuit Court. To effectuate caseload balancing and judicial economy, other criminal proceedings may be assigned to the Circuit Court by written order signed by the Judge of the Circuit Court and the Chief Judge of Superior Court.

303.3. Other Criminal Proceedings. This Rule applies to all criminal cases filed with the Superior Court, whether initiated by information, indictment (pursuant to Local Rule 302.1), or by transfer from another county. Pursuant to Rule 2.2, Indiana Rules of Criminal Procedure, criminal felony and misdemeanor cases filed in the Superior Court will be assigned as follows:

- (1) Misdemeanor cases will not be assigned to a particular Judge (except as provided in Local Rule 107, but rather shall be heard by the judicial officer then sitting in the Traffic and Misdemeanor division of the court on the date such misdemeanor is to be heard.
- (2) Each of the Judges of the court shall be assigned by the Chief Judge, responsibility for the finding of probable cause in new criminal felony and misdemeanor filings.

- (3) Upon the finding of probable cause on a felony charge, the prosecutor shall submit to the clerk of the court the charges and court's finding of probable cause. The clerk shall not assign a Judge or cause number to any new criminal felony filings in advance of a judicial finding of probable cause. Further, in the event that the prosecuting attorney shall elect to file a case and request that the clerk issue a summons, without first submitting the case for a finding of probable cause, or after a finding of no probable cause, the clerk shall assign the case as provided herein.
- (4) The clerk shall, upon filing, whether by indictment or information, randomly assign, by computer, all criminal felony cases to the Judges of the criminal division. Should there be a Drug Treatment Court established pursuant to Local Rule 109.2 herein, all cases assigned to that Court shall be done in accordance with an assignment order entered by the Chief Judge. The Chief Judge shall thereafter have authority to transfer such felonies to other Judges of the court, so as to comply with Rule LR71-AR1-107, that being the Local Caseload Plan for St. Joseph County.
- (5) Notwithstanding the subparagraph above, the Chief Judge may reassign a case to any other Judge of the court as may be determined to be in the best interests of the court pursuant to Rule LR71-AR00-7(B), herein.
- (6) Any dismissed felony charges shall, if re-filed, be assigned to the original Judge, notwithstanding paragraph (4) above.
- (7) Upon a change of Judge under C.R. 12, the case shall be reassigned pursuant to C.R. 13. In the event that sufficient

criminal division Judges are not available, Judges assigned to the civil division shall be available for assignment to the case.

(8) Notwithstanding subparagraphs four (4) above:

(a) If a case is randomly assigned to a Judge of this court at the time when there is already pending before another Judge of the court another criminal felony against the same defendant, the later filed felony case(s) may be transferred to the Judge of the earliest assigned and pending case.

(b) Cases involving co-defendants assigned randomly to different Judges of this court may be transferred to the Judge to who the earliest filed case was assigned; however, where a co-defendant in a newly filed case already has a pending felony in this court, assignment of the new case(s) should be made pursuant to subparagraph (a) above.

(c) Multiple cases pending against a defendant may be reassigned by the Chief Judge, pursuant to Rule LR71-AR00-7(B) herein so that one Judge is assigned all such cases.

(d) Cases randomly filed in which one or more of the courts charge the crime of Murder shall not be subject to transfer under this rule.

(9) Where a petition to revoke probation is filed alleging the commission of a new felony and the new felony crime is pending in this court, the petition may be transferred to the Judge to whom the new felony is assigned.

Rule LR71-CR00-304. Appearance and Presence of Defendants.

304.1. Personal Presence of Defendants. All defendants shall be present in Court at every stage of the proceedings conducted in open Court. All defendants shall be personally present at every stage of the proceedings including hearing on motions.

Rule LR71-CR00-305. Discovery.

305.1. Motions and Orders.

305.1.1. Automatic Order to Produce. At the initial hearing or at any time thereafter, the Court will automatically order the State to disclose and furnish all relevant items and information under this rule to the defendants within fifteen (15) days from the date of the initial hearing, subject to Constitutional limitations and protective orders. Likewise, the Court will order the defendant(s) to provide the State with discovery within thirty (30) days of the initial hearing or other date specified by the Court.

305.1.2. Discovery Production and Certification. At the time of production of discoverable material by either of the parties, the producing party shall in writing enumerate all material produced and shall certify to the Court in writing that it comprises all discoverable material then available and the party to whom it is supplied shall acknowledge receipt thereof in writing to be filed with the Court.

305.1.3. Written Motion. No written motion is required, except:

- (1) To compel compliance under this Rule;
- (2) For additional discovery not covered under this Rule;

(3) For a protective order; or

(4) For an extension of time.

305.2. **Discovery Deadlines.** All discovery shall be completed by the Omnibus date unless extended for good cause shown. However, the parties shall have a continuing obligation to disclose evidence and discovery required by these rules or by law.

305.3. **Notice Required.** Each side, within the time allowed for compliance with discovery under this Rule, shall provide the other with notice of its intent to introduce evidence pursuant to Indiana Rule of Evidence 404(b), 609(b), or any other Rule which requires notices as a prerequisite to the admission of evidence.

305.4. **Waiver.** Although each side has a right to full discovery under this Rule, each side has a corresponding duty to seek out discovery. Failure to do so may result in the waiver of this right.

305.5. **State's Disclosure.** The State shall disclose the following material and information within its possession or control:

- (1) The names and last known addresses of persons whom the State intends to call as witnesses, with their relevant written or recorded statements;
- (2) Any written, oral, or recorded statements made by the accused or by a co-defendant and a list of witnesses to the making and acknowledgment of such statements;
- (3) A transcript of those portions of grand jury minutes containing testimony of persons whom the prosecuting attorney intends to call as witnesses at the hearing or trial;

- (4) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments, or comparisons;
- (5) Any books, papers, documents, photographs, or tangible objects that the prosecuting attorney intends to use in the hearing or trial or which were obtained from or belong to the accused;
- (6) Any record of prior criminal convictions that may be used for impeachment of the persons whom the State intends to call as witnesses at the hearing or trial;
- (7) Any police reports concerning the investigation of the crime or crimes with which the defendant is charged.

The State shall also disclose to defense counsel any material or information within its possession or control that tends to negate the guilt of the accused as to the offense charged or would tend to reduce the punishment therefore. The State may perform these obligations in any manner mutually agreeable to the prosecutor and defense counsel.

305.6. Defendant's Disclosure. Defendant's counsel shall furnish the State with the following material and information within his/her possession or control:

- (1) Any defense that he/she intends to make at a hearing or trial;
- (2) The names and last known addresses of persons he/she intends to call as witnesses, with their relevant written or recorded statements and any record of prior criminal convictions known to him/her;

- (3) Any books, papers, documents, photographs, or tangible objects he/she intends to use as evidence;
- (4) Medical, scientific, or expert witness evaluations, statements, reports, or testimony that may be used at a hearing or trial.

After the formal charge has been filed, upon written motion by the State, the Court may require the accused, among other things, to:

- (1) Appear in a lineup;
- (2) Speak for identification by witnesses to an offense;
- (3) Be fingerprinted;
- (4) Pose for photographs not involving re-enactment of a scene;
- (5) Try on articles of clothing;
- (6) Allow the taking of specimens of material from under his/her fingernails;
- (7) Allow the taking of samples of his/her blood, hair, and other materials of his/her body that involve no unreasonable intrusion;
- (8) Provide a sample of his/her handwriting;
- (9) Submit to a reasonable physical or medical inspection of his/her body.

Whenever the personal appearance of the accused is required for the foregoing purposes, reasonable notice of the time and place of such appearance shall be given by the State to the accused and his/her counsel, who shall have the right to be present. Provision may be made for appearances for such purposes in an order admitting the accused to bail or providing for his/her release.

305.7. Additions, Limitations, and Protective Orders.

305.7.1. Discretionary Disclosures. Upon a showing of materiality to the preparation of the defense, and if the request is reasonable, the court, in its discretion, may require disclosure to defense counsel of relevant material and information not covered by this Rule.

305.7.2. Denial of Disclosure. The court may deny disclosure authorized by this Rule if it finds that there is a substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment resulting from such disclosure to counsel.

305.7.3. Matters Not Subject to Disclosure.

305.7.3.1. Work Product. Disclosure hereunder shall not be required of legal research of records, correspondence, reports, or memoranda to the extent that they contain the opinions, theories, or conclusions of the State or members of its legal or investigative staffs, or of defense counsel or his/her staff.

305.7.3.2. Informants. Disclosure of an informant's identity shall not be required where there is a paramount interest in non-disclosure and a failure to disclose will not infringe the Constitutional rights of the accused. Disclosure shall not be denied hereunder of the identity of witnesses to be produced at a hearing or trial.

305.7.4. Protective Orders. Either side may apply for a protective order for non-disclosure of requested discovery.

Rule LR71-CR00-306. Dispositive Motions, Motions to Suppress, Other Motions.

306.1. Motions to be in Writing. Unless a party has prior, written leave of Court, all pre-trial motions shall be filed in writing with adequate notice provided to opposing counsel and to the Court.

306.2. Hearings on Motions. The court will not ordinarily set for hearing any motion to dismiss, motion to suppress, motion in limine (where the grounds therefore are known prior to trial), or other such dispositive motion, unless the motion contains a factual explanation as to why the granting of such is appropriate and is accompanied by a sufficient memorandum of law. Such motions, filed after the omnibus date, may not be given a hearing prior to trial.

Rule LR71-CR00-307. Plea Agreement Deadlines.

307.1. Plea Agreement Date – Felony Cases. In all criminal prosecutions, the Judge may assign a date that will serve as the plea bargain deadline date. The Judge may also assign a record date, trial date, and other dates as may be appropriate. If the parties have not reached a plea agreement by the omnibus date, the court may hold a pre-trial conference as early as that day.

307.2. Plea Agreement Date – Traffic and Misdemeanor Division. The judicial officer presiding over criminal prosecutions in the Traffic & Misdemeanor Division may assign an omnibus date, record date, trial date, and other dates as may be appropriate. If the parties have no plea agreement, the court may hold a pre-trial conference on the plea agreement deadline date.

Rule LR71-CR00-308. Miscellaneous Criminal Rules.

- 308.1. Determination of Probable Cause.** In the even that any charging instrument, search warrant, subpoena, or other document, the issuance of which requires a finding of probable cause, or similar factual and legal finding, shall be submitted to a judge and that judge finds that no probable cause exists or that the submission is in any other way insufficient, any re-submission shall be made to the original judge, unless the original judge agrees that it may be submitted to another judge for his or her consideration.
- 308.2. Dismissal.** Any dismissed felony shall be assigned to the original Judge if re-filed, notwithstanding any other assignment rule herein.
- 308.3. Bond Schedule.** Each of the Courts, individually or in concert, may establish a presumptive bond schedule for criminal cases. The schedule is attached hereto as Appendix A.
- 308.4. Subsequent Arrest of a Person Already Released on Bail.** Any person arrested for either a felony or misdemeanor, without a warrant, while already admitted to bail on a pending criminal charge, either felony or misdemeanor, shall not be eligible for pre-trial release pursuant to the presumptive bond schedule for St. Joseph County, Indiana contained in Rule LR71-CR00-308.3 (Appendix A), but shall instead remain in custody until a determination of probable cause shall be made at or before an initial hearing before a judicial officer pursuant to I.C. § 35-33-7-1 and § 35-33-7-2. If probable cause is found, bail shall be determined pursuant to I.C. § 35-33-8-1 et seq. If probable cause is not found the arrested person shall be immediately released.

APPENDIX A TO LOCAL CRIMINAL RULES, 300

SERIES

PRESUMPTIVE BOND SCHEDULE

FOR COURTS IN ST. JOSEPH COUNTY, INDIANA

<u>Offense</u>	<u>Bond Amount</u>
Murder	None
Attempted Murder	\$100,000/\$10,000
A felony	\$50,000/\$5,000
B felony – crimes of violence	\$50,000/\$5,000
B felony – dealing drugs (except “possession with intent”)	\$50,000/\$5,000
B felony	\$30,000/\$3,000
C felony – crimes of violence	\$30,000/\$3,000
C felony – dealing drugs (except “possession with intent”)	\$30,000/\$3,000
C felony	\$10,000/\$1,000

D felony – crimes of violence & stalking, intimidation, invasion of privacy	\$10,000/\$1,000
D felony – DUI & Drug Cases	\$7,500/\$750
D felony	\$5,000/\$500
A misdemeanor – DV battery, invasion of privacy, intimidation & DUI (A & C misdemeanor)	\$5,000/\$500
A misdemeanor	\$250, cash
B misdemeanor	\$150, cash
C misdemeanor	\$150, cash

LOCAL RULES FOR FAMILY COURT AND ORDERS OF PROTECTION FOR ST. JOSEPH COUNTY (400 SERIES)

Rule LR71-FL00-401. Domestic Relations Authority.

These rules are adopted pursuant to the authority of T.R. 81, Indiana Rules of Trial Procedure, and are intended to supplement those rules. These rules shall govern the practice and procedure in all domestic relations cases in the St. Joseph Circuit, Superior, and Probate Courts and are created to serve the healthy and child-sensitive functioning of families. "Family cases" are defined as all pending marital dissolution cases (including all cases arising out of the marital relationship), and all paternity, and guardianship matters.

Rule LR71-FL00-402. Case Captioning.

Case captions in dissolution, separation, and paternity cases will be designated as required by the Indiana Code and/or Indiana Trial Rules, but should not include designation of "Petitioner" or "Respondent" unless otherwise required by a specific statute or rule.

As appropriate, pleadings may include the denomination of "Husband" or "Wife," "Former Husband" or "Former Wife," "Mother," "Father," or "Putative Father," "Grandfather" or "Grandmother, or "Child" or "Children."

The parties and attorneys are reminded that the parties were spouses and/or parents/grandparents before they were litigants, and the parties and attorneys are enjoined to comply with both the letter and the spirit of LR71-FL00-404 and 405 in the captioning and drafting of any pleading or motion.

Rule LR71-FL00-403. Family Cases Involving Unemancipated Children.

403. 1. Contested Matters.

403.1.1. Referrals for Investigation and Report. A Court may refer contested matters involving child custody and parenting to the Domestic Relations Counseling Bureau (DRCB) or another service provider for screening, investigation, and/or report. A referral may be made prior to hearing, both before and after a final decree, on motion of either party with the consent of the Court, or on the Court's own motion.

403.1.2. Definition. "Contested matters," for purposes of this rule, shall include issues involving child custody and parenting time, which may exist both before and after the entry of a final decree.

403.1.3. Cooperation of Parties. The parties to contested matters shall meet, and cooperate, with the DRCB or other service provider as required.

403.1.4. DRCB Recommendations. Upon referral, the DRCB may recommend either that the parties be referred for interventions (such as mediation, counseling, or case management), or that the parties proceed to an investigation and evaluation. Unless otherwise order by the Court, a DRCB investigation and evaluation of contested matters involving child custody and parenting time will not be conducted by the DRCB unless the above-mentioned interventions have failed or are found to be inadequate to protect the physical safety or emotional well-being of a minor child.

403.1.5. DRCB Reports. The DRCB shall report to the Court on all contested matters referred to its attention. The DRCB shall

file its original report with the Court, which shall distribute copies to counsel or to a party not represented by counsel.

403.1.6. Confidentiality of DRCB Records. The records and reports of the DRCB contain information of a private and personal nature, and the release of that information, without court approval and supervision, could result in intentional mischief or unintentional injury to the parties, their children or relatives. As such, the records and reports of the DRCB are confidential, and that any and all access to the notes, records, or reports of the DRCB shall be allowed only by order of the Court that has jurisdiction over the relevant parties and cause of action.

403.2. Uncontested Matters. The parents of unemancipated children are encouraged to develop a parenting plan that is mutually acceptable to the parents and their children. Where practicable and appropriate for all concerned, the Court shall give due consideration to agreements between parents.

Rule LR71-FL00-404. Conduct of the Parties and Counsel.

Fault of one or both parties in the breakdown of a marriage is not at issue in a dissolution of marriage action under Indiana law. At all times, the parties to a dissolution action and their attorneys are to conduct themselves in a manner consistent with the Indiana statute. The parties and their counsel may be sanctioned accordingly for their failure to conduct themselves in a manner which is consistent with the intent of the Indiana no-fault statute. The Court will not permit unsolicited argument, name calling, needless accusations, or irrelevant or immaterial

evidence to be submitted at these hearings and may sanction repeated violations of this rule.

Rule LR71-FL00-405. Expectations of Parents and requirements for Attorneys.

405.1. Expectations of Parents and Attorneys.

- a. Parents and attorneys in family cases will conduct themselves in concert with the courts to serve as co-problem solvers.
- b. Parents and attorneys shall pursue the best interests of all family members with particular deference to the needs and welfare of the children.
- c. Parents and attorneys will pursue all opportunities to resolve disputes and conflicts before relying on the Court for a determination.
- d. Parents and attorneys will treat one another with courtesy and respect.

405.2. Requirements for Initial, Provisional and Other Hearings.

405.2.1. Pre-Hearing Meeting Requirements, Exceptions.

It is required that, unless considerations of safety or other good cause make it unreasonable, before the date and time set for an initial, provisional or other hearing, attorneys and pro se parties shall meet with each other in a good-faith attempt to resolve all issues. Attorneys and pro se parties contacted for this purpose shall make themselves reasonably available for consultation.

Prior to commencement of a hearing or trial the attorneys and pro se parties shall certify to the court that they have complied with this rule. The duty of consultation shall be continuing.

405.2.2. Resolution of Parenting Time Problems and Disputes

405.2.2.1. Disagreements Generally. When a disagreement occurs regarding parenting time and the requirements of the Indiana Parenting Time

Guidelines, both parents shall make every effort to discuss options, including mediation, in an attempt to resolve the dispute before going to court.

405.2.2.2. Mediation. If court action is initiated, the parents shall enter into mediation pursuant to Rule 411.1 unless otherwise ordered by the court.

405.2.2.3. Child Hesitation. If a child is reluctant to participate in parenting time, each parent shall be responsible to ensure the child complies with the scheduled parenting time. In no event shall a child be allowed to make the decision on whether scheduled parenting time takes place.

405.2.2.4. Relocation. When either parent considers a change of residence, reasonable advance notice of the intent to move in accord with Indiana Code provisions shall be given to the other parent. Parents are expected to discuss necessary changes in the parenting schedule as well as the allocation of transportation costs in exercising parenting time which may result from the move.

405.2.2.5. Withholding Support or Parenting Time. Neither parenting time nor child support shall be withheld because of either parent's failure to comply with a court order. Only the court may enter sanctions for noncompliance. A child has the right both to support and parenting time, neither of which is dependent upon the other. If there is a violation of either requirement, the remedy is to apply to the court for appropriate sanctions.

405.2.2.6. Enforcement of Parenting Time.

a) Contempt Sanctions. Court orders regarding parenting time must be followed by both parents. Unjustified violations of any of the provisions contained in the order may subject the offender (noncompliant party) to contempt sanctions. These sanctions may include fine, imprisonment and/or community service.

b) Injunctive Relief. Under Indiana law, a non-custodial parent who regularly pays support and is barred from parenting time by the

custodial parent may file an application for an injunction to enforce parenting time under Indiana law.

c) **Criminal Penalties.** Interference with custody or visitation rights may be a crime under Indiana law.

405.2.2.7. Attorney Fees. In any court action to enforce an order granting or denying parenting time, a court may award reasonable attorney fees and expenses of litigation. In awarding fees, a court may consider whether the parent seeking attorney fees substantially prevailed and whether the parent violating the order did so knowingly or intentionally. A court can also award attorney fees and expenses against a parent who pursues a frivolous or vexatious court action.

405.2.3. Inapplicability to the Title IV-D Agency. As the State of Indiana does not represent either of the parents in a Title IV-D child support case, this rule does not apply to petitions or rules to show cause filed by the Title IV-D agency; however, the attorney for the Title IV-D agency and the parent(s) and their counsel, if any, are encouraged to meet and discuss resolution of these matters in advance of any hearing.

405.3. Attorneys to Provide Copies of Rules to Clients. It is required that attorneys will furnish their family clients with copies of these rules and assist them in fully understanding and observing both their spirit and intent.

Rule LR71-FL00-406. Protective Orders; Restraining Orders.

No petition for a protective order or other restraining order of the Court as defined by I.C. 34-26-5 & 6 shall be accepted for filing or considered by the Court without three copies of a fully executed Notice of Filing of Protective Order on a form as prescribed by the Court. Such forms shall be given to the Clerk at the

time of the filing of the request for restraining order or protective order and shall be utilized by the Clerk of the Court for insuring compliance with all relevant statutes. Counsel shall be responsible for assuring that the correct police agency receives a copy of any protective order. Counsel shall be responsible for filing any notice of termination of protective orders as required by statute.

A Petition for Protective Order filed by a party who has an open dissolution, separation, or paternity case shall be assigned to the judge handling the dissolution, separation, or paternity case. A Petition for Protective Order that is filed contemporaneously with a dissolution, separation, or paternity case shall be assigned a separate cause number but shall be assigned to the judge to whom the dissolution, separation, or paternity case is assigned.

No application for a temporary restraining order not authorized pursuant to I.C. 34-26-5 or 6 shall issue without strict compliance with the requirements of T.R. 65.

Rule LR71-FL00-407. Discovery.

407.1. Disclosure by the Parties. Upon the filing of a petition for dissolution of marriage or paternity action, the parties shall have a duty of reciprocal discovery and, unless otherwise ordered by the Court, shall provide the other party with copies of the following documents and things within thirty (30) days:

- (1) Personal, federal and state, tax returns for three (3) years preceding the filing of the petition for dissolution of marriage with all pertinent forms W-2, 1099, K-1 and other schedules, and the most recent employment pay stub, with year-to-date gross earnings and written employment contract(s), if any;
- (2) Tax returns and financial statements for five (5) years preceding the filing of the petition for dissolution of marriage

for all corporations, or partnerships, or other business entities in which either marital partner has any ownership or membership interest;

- (3) Statements from all banks, brokerage firms, investments firms, or mutual funds for three (3) months prior to and including the month in which the petition for dissolution of marriage is filed in which either marital partner has any interest, either alone or together with any other person, to include all checking, savings, certificate of deposit, treasury bills, stocks, bonds, or other forms of intangible assets;
- (4) Copy of deed to marital residence, or any other real estate in which a marital partner has any legal or equitable interest, whether alone or with others, including but not limited to any corporate deeds;
- (5) Amortization schedule or statement of balance for month in which the petition for dissolution of marriage was filed for any mortgage, land contract, or other lien on any real estate in the name of a marital partner, whether or not the marital partner has a sole or partial ownership interest;
- (6) Copies of appraisals of real estate, or personal property in which a marital partner holds an interest, prepared within two (2) years from date of petition for dissolution of marriage;
- (7) Statement of pension, profit sharing, individual retirement account, ESOP, or other form of tax deferred compensation plan maintained by or for a marital partner, for the month in which the petition for dissolution of marriage was filed;
- (8) Declaration sheet and schedule of cash value for all insurance policies owned by or for which any marital partner is the beneficiary which have a cash surrender value;

- (9) Copies of the most current statements of debt for the three (3) months preceding and including the month in which the petition was filed.

Each party shall make his or her initial disclosures based on information reasonably available to him or her and no party is excused from making disclosures because he or she has not fully completed his or her investigation of the case or because he or she challenges the sufficiency of the other party's disclosure or because the other party has not made the required disclosure.

407.2. Continuing Duty to Disclose. Duties of disclosure set forth by the Court's reciprocal discovery order shall be continuous.

Supplementation shall be required not fewer than ten (10) days prior to trial showing any changes in the status of assets and debts as of the month of or one (1) month prior to trial, the most recent of which documents and things are available.

407.3. Utilization of Indiana Rules of Trial Procedure. The parties may utilize all remedies available in the Indiana Rules of Trial Procedure to enforce, modify, or extend the time within which to comply with the Court's reciprocal discovery order. The reciprocal discovery order does not preclude either party from utilizing the provisions governing requests for discovery provided for in the Indiana Rules of Trial Procedure to the full extent permitted by said rules.

Rule LR71-FL00-408. Status Conferences.

A status conference may be requested at any time and one may be set by the Court on its own motion after the filing of the initial petition for dissolution.

The primary purpose of the status conference will be for attorneys and unrepresented parents to review with the Court the progress being made as it pertains to the resolution of outstanding issues. Attorneys and parents are expected to assist by informing the Court of all efforts being made to resolve the conflicts in order to protect and serve the immediate and long term best interests of the children.

Counsel and parents should be ready to provide to and discuss with the Court:

- (1) The parents most current *Parenting Plan Worksheet (PPW)*. If the parents have not completed a joint parenting plan, each parent is expected to prepare and provide his or her own *PPW*.
- (2) A list of community resources the parents could use to assist them in resolving their parenting issues.
- (3) A copy of the parents' *Agreed Commitments* from their website work as provided in Rule LR71-FL00-413.

Rule LR71-FL00-409. Hearings.

409.1. Summary Considerations. Hearings on uncontested petitions for dissolution, applications for provisional relief, rules to show cause, petitions to modify, and other matters appropriate for summary consideration and disposition and uncontested petitions for dissolution of marriage shall be set for summary disposition on each judicial day or at other available times upon request as the calendar of the Court permits. Hearings on contested matters shall be set no earlier than ten (10) days after the filing of the report of the DRCB, as the calendar of the Court will permit. Dissolution petitions will not be considered uncontested if any issue remains unresolved between the parties.

409.2. **Parenting Issues.** Parents and attorneys are reminded of their obligation to avoid the use of exaggeration and unnecessarily harsh criticism in their motions and pleadings. Hearings on motions and pleadings filed with the Court in matters involving parenting time and parenting concerns may only be scheduled after first attempting to resolve the issue(s) by reaching agreements that best serve the interest of all family members with particular regard to the best interest of the children. Except in instances where it would be dangerous (i.e. past or present domestic violence; abuse or neglect of children) or otherwise unreasonable to do so, if both parents are represented by counsel, attorneys are expected to use personal or telephonic consultation to resolve any issue before seeking relief from the Court. In that consultation, it is expected that counsel will cooperate to:

- (1) Attempt to resolve the matter(s) at issue;
- (2) Discuss the alternative resources (including but not limited to counseling, mediation, support from the DRCB, etc.) that could be used to resolve the conflict and foster cooperation further serving the best interests of the children;
- (3) Confirm that the parents have completed their mandatory website work and attended the co-parenting classes, and review with them their *Agreed Commitments* from the website discussed below in Rule LR71-FL00-413;
- (4) Attempt to resolve ongoing conflict by assisting their clients in the development of, with their clients, a *Parenting Plan* (forms are available from the DRCB) to serve all family members with particular regard for the best interest of the children.

Rule LR71-FL00-410. Trials and Pre-trial Conferences.

410.1. Trial Settings. A scheduling order, setting for trial, pre-trial conference, and discovery cut-off dates may be entered by the Court after the filing of the Petition. Each case in which a trial has been set must be ready on at least three (3) days' notice by the Court to the attorneys of record. Petitions for dissolution will be set by the Court as early as the Court's calendar permits. Contested matters that are ready for trial in less time than provided herein may be set for trial at the request of one or both of the parties as the calendar of the Court permits. Cases in which request for trial has been made must be ready on at least three (3) days' notice by the Court to the attorneys of record.

410.2. Pre-trial Conferences. On request of any party, a pre-trial conference shall be set by the Court prior to the trial date. Not fewer than five (5) days prior to the pre-trial conference, the parties shall exchange Pre-trial Statements.

410.3. Pre-trial Order and Required Pretrial Meeting. In each family law case expected to proceed to trial on any contested matter, at least twenty-one days prior to the trial date, the parties and their respective counsel (if any) shall meet in person. The purpose of this meeting shall be (a) to explore whether settlement is possible, and if so, to attempt to reach a settlement; and (b) if settlement is not possible or efforts to reach a settlement are fruitless, to prepare a joint pretrial order containing:

- (1) All stipulations.
- (2) Each party's contentions of facts that are in dispute and require resolution by the court.
- (3) Where applicable, each party's statement of marital assets and debts, including any exhibits that will be offered in support of these figures.
- (4) The identity of each witness and the factual issue(s) about which the witness is expected to testify.
- (5) The expected length of trial.
- (6) Whether mediation, arbitration, or another form of alternative dispute resolution may be appropriate in the opinion of either party.

The pretrial order shall also contain any information required elsewhere in these rules. The pretrial order shall be prepared as follows:

- In cases where counsel have appeared for both parties, counsel shall prepare and jointly sign the proposed pretrial order.
- In cases where counsel has appeared for only one party, he or she shall prepare the proposed pretrial order and secure the signature of the party appearing pro se.
- In cases where both parties proceed pro se, they shall jointly prepare and sign the proposed pretrial order.
- In the event one party or counsel refuses or fails to sign the proposed pretrial order, the party or counsel filing the order shall certify to the court in writing at the time of filing the order the circumstances surrounding the refusal or failure of the other party or counsel to sign the order

The pretrial order required by this rule shall be filed with the Court no later than fourteen days before the scheduled trial date.

410.4. Pre-trial Statements. Pre-trial Statements shall be prepared by each party prior to the pre-trial conference and shall address the following:

- (1) Preliminary Financial Statement, which shall include:
 - (a) Identification and valuation of assets;
 - (b) Identification and valuation of liabilities;
- (2) Identification of other contested issues, including custody, parenting time, support, post-secondary educational assistance, and rehabilitative maintenance;
- (3) Preliminary proposal for resolution of contested issues;
- (4) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;
- (5) The names of witnesses to be called during the trial and the general nature of their expected testimony;
- (6) Such other matters as may aid in the disposition of the action.

At the conclusion of the pre-trial conference, the Court shall order the case to proceed to trial or continue the trial setting and order the parties to mediation if the Court determines mediation will assist in the resolution of contested matters.

410.5. Trial Submissions. Each party's final verified financial statement and contentions must be filed with the Court at least five (5) days before the date of trial. No case shall be considered ready for trial, or be tried, unless the report of the DRCB (where appropriate) has been filed with the Court.

Rule LR71-FL00-411. Mediation or Alternative Dispute Resolution.

411.1 Mandatory Mediation. In any case involving unemancipated children, prior to any contested hearing or trial, either before or after the issuance of a final decree of dissolution, on the parents shall participate in mediation pursuant to Ind. ADR Rule 2 et seq., or, in lieu of the foregoing mediation requirement, the parties may participate in another method of alternative dispute resolution (ADR) as outlined in Ind. ADR Rule 1.1. Unless excused by court order after certification by counsel or by an unrepresented party of an emergency or another reason indicating that mediation would be detrimental or counterproductive to one or more of the parents or children, parents shall mediate contested matters, both before provisional hearings involving unemancipated children and after a final decree.

411.2 Exceptions. The Court may excuse the parents from this requirement if an attorney for one of the parents or an unrepresented parent certifies in writing pursuant to Ind. TR 11 that an emergency exists or some other reason exists that justifies a conclusion that mediation would be detrimental or counterproductive to one or more of the parents or children. The certification shall include a statement of facts sufficient to enable the Court to determine whether waiver of the mediation or ADR requirements of this rule is appropriate under the circumstances. Counsel and parents are advised that the Courts do not favor requests for waiver from the requirements of this rule, and that waiver requests should be sought only in exceptional instances and not as a matter of course.

Rule LR71-FL00-412. Child Support Worksheet.

At the time of the hearing in all matters regarding child support issues, the parties shall file:

- (1) A Verified Child Support Worksheet with the Court; and
- (2) Such supporting documentation as the Court may require to establish current income and income earned during the prior tax year, work-related child care expenses, if any, and the children's portion of health care expense.

A party seeking an order for child support shall cause a Notice of Hearing and Order to Disclose Information, with a Child Support Worksheet, and a copy of the Petition to be served upon the opposing party in a manner complying with the Indiana Rules of Civil Procedure. Blank copies of the worksheet may be obtained from the Clerk.

Rule LR71-FL00-413. Mandatory Website Work and Co-Parenting Class.

413.1. Co-Parenting Class. In marital dissolution and separation cases, parents with one or more children under the age of eighteen (18) on the date of their initial petition shall attend a co-parenting class as assigned by the DRCB.

413.2. Marital Dissolution and Separation Cases. In marital dissolution and separation cases, parents with children under the age of eighteen (18) on the date of their initial petition shall complete the website work on www.UpToParents.org within thirty (30) days of the filing of the action. Parents shall submit a copy of "The Conclusion Page" (which appears as the final page of the website work) to the DRCB for filing with the Court to verify completion of the website

work. Parents may also file a copy directly with the Clerk of the Court.

413.3. Paternity Cases. In paternity cases, parents shall attend the co-parenting class ordered by the Probate Court. Parents in paternity cases shall complete the website work at www.ProudToParent.org and take their completed website work to their co-parenting class.

413.4. Website Assistance. Parents may find forms (e.g. parenting plan worksheet) to develop an agreed parenting plan on the website www.UpToParents.org. Parents open to the possibility of reconciliation may wish to substitute the website work from www.WhileWeHeal.org.

413.5. Website Work Brought to Hearing. Parents may be asked by the Court to bring their completed website work (Exercises and Agreed Commitments) to any hearing.

Rule LR71-FL00-414. Exchange of Income Information, Post-Decree.

All decrees issued by the Court which provide for the payment of child support shall include a requirement that the parties exchange not later than April 30th of each alternating year after the year the decree is entered, income information for the previous tax years, and a copy of the most recent employment check stub showing year-to-date gross earnings, until such time as all children whose support is the subject of the decree are emancipated. The income information to be exchanged shall include personal tax returns with all pertinent forms, W-2, 1099, K-1, and other schedules and corporate, partnership, and/or sole proprietorship tax returns for the two (2) prior tax years.

Rule LR71-FL00-415. Sanctions.

A party that fails to comply with these rules is subject to sanctions, upon motion of a party, pursuant to T.R. 37, Indiana Rules of Trial Procedure.

Rule LR71-FL00-416. Standing Order for Parental Education Workshop.

416.1. Findings. The Judges of the St. Joseph Superior and Circuit Courts find that it would be in the best interest of society, of children, and of the Courts to encourage cooperation and mediation between separating and divorcing parents. We further find that a mandatory parental education workshop will:

- (1) Aid the children of divorcing parents;
- (2) Aid the parents in post separation parenting;
- (3) Encourage agreements between litigating parents in the best interests of their children; and
- (4) Conserve Court time by reducing repetitive petitions over child custody, visitation, and support.

416.2. Selection of Provider(s). The Judges of the St. Joseph Superior and Circuit Courts shall approve, annually, by order of the Court, one or more providers of a parental education program for the Courts. Approved program brochures shall be provided by the Clerk of the Court to petitioners and served with the summons upon each respondent by the Sheriff.

416.3. Attendance. In all dissolution of marriage or separation actions filed in the St. Joseph Superior and Circuit Courts, both parties shall attend a parental education program approved by the Courts if the parties have a minor child or children less than the age of eighteen

(18) as of the date of filing of the action. The parties are responsible to pay the cost of attending the program. All or a portion of the attendance fee may be waived for indigence by the assigned Judge. Waiver of attendance for completion of a similar program, individual counseling, or for other good cause is available from the assigned Judge in individual cases. Each parent must attend and complete the workshop within sixty (60) days of the submission of his or her registration form with the DRCB. The workshop provider will furnish each participant and the Court with a certificate of completion of the program. A party that fails to complete the program within the required time period may be subject to a finding of contempt by the Court and appropriate sanctions.

416.4. DRCB Registration. Each parent in a dissolution or separation action involving a child or children under the age of eighteen (18) shall, within fifteen (15) days of the filing of the action, appear at the offices of the DRCB to complete a registration form. The offices of the DRCB are located on the 8th floor of the County-City Building, 227 W. Jefferson Boulevard, South Bend, Indiana 46601. Forms may be submitted between 8:30 a.m. and 4:00 p.m., Monday through Friday. Parents must provide the DRCB with the cause number of the dissolution or separation action at issue at the time they pre-register. Each parent will, at that time, be given a parental education class assignment. The DRCB will document registration and class attendance in the Clerk's file.

Rule LR71-FL00-417. Additional Support for Families.

At any time parents need assistance to reduce their conflict, foster cooperation, and more cooperatively respond to the needs of their children, they and their attorneys (if any) are expected to seek out the resources that could provide help. The DRCB is available to assist parents and attorneys in identifying alternative community resources, including but not limited to counseling and mediation resources. If attorneys and parents are not able to agree on the alternative resource(s) to use in an effort to resolve the immediate issue and conflict, the Court may select the resource(s) the parents will be ordered to use.

Rule LR71-FL00-418. Alternative Dispute Resolution Fee.

The Clerk of the Court shall collect from every party filing a petition for legal separation, paternity, or dissolution of marriage action under I.C. 31 an alternative dispute resolution fee of twenty dollars (\$20); as such amount may be modified from time to time.

Rule LR71-FL00-419. Local Rules for Family Court Project.

419.1. Creation of Family Court. With the adoption of this rule, the Circuit, Probate, and Superior Courts establish a Family Court Project within St. Joseph County, Indiana.

419.2. St. Joseph Family Court. The Family Court Project within St. Joseph County shall be known as the St. Joseph Family Court.

419.3. Objective of Family Court. The primary objective of the St. Joseph Family Court is to coordinate cases among Family members throughout the judicial process. This allows judges to review issues

in a comprehensive manner, consolidate hearings when appropriate, issue non-conflicting orders, impose sanctions to best fit Family needs, and encourage accountability.

419.4. Scope of Family Court Rules. These rules are implemented only for cases assigned to the St. Joseph Family Court. These rules are in addition to the local administrative, civil, and family law rules, and in the event of a conflict the specific rules of the Family Court shall control.

419.5. Definitions.

419.5.1. Family. For purposes of these rules, “Family” includes parents and their child or children, whether all of these individuals reside together or not, or a household comprised of adults and a child or children, whether all of the adults are related by blood or marriage to any of the child or children.

419.5.2. Family Court. “Family Court” is the designation given the coordinated effort to link together for purposes of case coordination all courts before which cases involving a family or household with children (hereinafter a “Family”) are pending. The individual cases maintain their separate integrity and separate docket number, but may be given a common Family Court designation. Individual cases may all be transferred to one Judge, or may remain in the separate courts in which they were originally filed.

419.5.3. Family Court Proceeding. A “Family Court Proceeding” refers to all proceedings of each individual case pertaining to a Family that has been assigned to Family Court.

419.5.4. Related Case. Related cases, for purposes of the St. Joseph Family Court, include the following types of cases involving one or more members of a Family: CM, or DF filings involving domestic and/or family violence related charges and/or substance abuse charges, and all cases of the following types: PO, JM, JS, JP, JT, JD, JC, DR, GU, AD, and MH.

Rule LR71-FL00-420. Jurisdiction and Related Cases.

420.1. Related Cases. The following types of cases in which a Family has involvement in multiple court proceedings are within the jurisdiction of the St. Joseph Family Court: CHINS, delinquency, juvenile status offense, child support, termination of parental rights, adoption, placement of children, paternity, dissolution of marriage, legal separation, mental health, domestic violence, protective order, adult criminal (intra-family), and alcohol or drug charges.

420.2. Concurrent Jurisdiction. Concurrent Family Court jurisdiction over any Related Case may be exercised by a court exercising jurisdiction over a juvenile case involving the Family.

420.3. Concurrent Hearings. A judicial officer exercising Family Court jurisdiction over a number of cases involving a Family may, in its discretion, conduct concurrent hearings in related cases, take evidence on the related cases at these hearings, and rule on the admissibility of evidence for each case separately, as needed to adequately preserve the record for appeal.

Rule LR71-AR00-421. Assignment of Cases and Clerk's Responsibilities.

421.1. Approval of Assignment. Assignment of Family Court designation and jurisdiction to all cases involving a Family shall require the approval of the Judge of the St. Joseph Circuit Court, St. Joseph Probate Court, or St. Joseph Superior Court to which the case has been assigned. The transfer and consolidation of cases assigned to Family Court are subject to the provisions of Rule LR71-TR42-424 of these Family Court Rules.

421.2. DRCB Referral. Upon assignment of a case to Family Court, case management procedures shall be implemented, including referral to the DRCB for coordination services. The DRCB may undertake the following, as appropriate:

- (1) Assess family situations and need for type of parenting intervention through screening intakes;
- (2) Conduct cross-reference checks with other Court agencies for multiple-case families;
- (3) Notify appropriate Courts of all legal interventions involving the family;
- (4) Make referrals or recommend referrals to the Courts regarding the appropriate parental education, mediation, facilitation, high conflict co-parenting education, counseling, or evaluation service;
- (5) Monitor compliance with referrals and Court orders;
- (6) Coordinate other needed services for families;
- (7) Provide varied levels of direct case management services for at-risk families.

Rule LR71-TR72-422. Clerk's Responsibilities; Notice.

- 422.1. Notification of Assignment.** Notification of assignment to Family Court shall be provided to all parties and counsel. The Clerk is to enter the Family Court assignment on the chronological case summary.
- 422.2. Service Lists.** The DRCB shall confirm the entry of appearances of any counsel in any Family Court case and shall create service lists for the judicial officer to which each case is assigned.
- 422.3. Notice of Related Case Assignment.** The parties, within a reasonable time after a case is assigned to Family Court jurisdiction, shall provide to the DRCB a list of all Related Cases.

Rule LR71-TR76-423. Change of Judge.

- 423.1. Change of Judge.** Once notice is sent to the parties that a case has been selected for Family Court, no motion for change of venue from the judge may be granted except to the extent permitted by Indiana Trial Rule 76. A motion for change of venue from the judge in any matters arising in the Family Court proceeding or any future cases joined in the Family Court proceedings after the initial selection of cases shall be granted only for cause.
- 423.2. Special Judge.** If a special judge is appointed, all current and future cases in the Family Court proceeding may be assigned to the special judge.

423.3. Objection to Assignment to Family Court Jurisdiction. A party may object to the assignment of a case to Family Court jurisdiction. Any such objection must be filed within ten (10) days after notice is sent that a case has been assigned to Family Court and shall set forth the basis of the objection. An objection to the assignment of a case to Family Court jurisdiction may be granted for good cause shown only.

Rule LR71-TR42-424. Case Consolidation and Transfer.

The supervising judge of the St. Joseph Family Court may enter orders for the consolidation and transfer of Related Cases to Family Court jurisdiction when the judicial officers presiding over such cases do not object. No case shall be transferred or consolidated until the judicial officers to whom such cases have been assigned have been advised of the contemplated action. The consolidation and transfer of Family Court cases shall be accomplished by the entry of an order signed by the Presiding Judge of the St. Joseph Family Court.

Rule LR71-EV201-425. Judicial Notice and Access to Records.

425.1. Judicial Notice. Any court having jurisdiction over a case assigned to Family Court jurisdiction may take judicial notice of any relevant orders or Chronological Case Summary (CCS) entries issued by any Indiana Circuit, Superior, County, or Probate Court.

425.2. Notice to Parties. If a court takes judicial notice of:

- (1) A court order, the court shall provide a copy of that order;
- or
- (2) A CCS entry(s), the court shall provide a copy of the entire CCS.

The court shall provide copies of the order or CCS to the parties to the case at or near the time judicial notice is taken.

425.3. Access to Records. Parties to a Family Court proceeding shall have access to all Related Cases, with the exception of confidential cases or records to which they are not a party. Parties may seek access to confidential cases or records in another case within the Family Court proceeding in which they are not a party, by written petition based on relevancy and need. Confidential records shall retain their confidential status and shall not be included in the public record of the proceedings. The DRCB shall be given access to all records for the purpose of maintaining their records and producing reports regarding its investigations. The records and reports of the DRCB shall be considered confidential, and all access to the records and reports of the DRCB shall be allowed only by order of the Court that has jurisdiction over the relevant parties and cause of action.

Rule LR71-AR00-426. Requirement to Update Information.

When a Family member leaves the residence of a Family member whose case has been assigned to Family Court jurisdiction, the DRCB shall be notified within three (3) business days by the party or counsel, and the new address is to be provided to the DRCB.

Rule LR71-TR3.1-427. Entry of Appearance Forms.

427.1. Appearance Form. Entry of Appearance Forms as approved by the St. Joseph Circuit, Probate, and Superior Courts shall be utilized. An entry of Appearance Form that does not comply with these rules is subject to being stricken.

427.2. Appearance Form by Petitioner. The Clerk shall place the entry of Appearance Form filed by the petitioner in a Protective Order case in the confidential file.

427.3. Report. The report of a guardian ad litem or CASA shall be available to DRCB staff under the same rules of confidentiality which apply to submission of such reports to judicial officers.

Rule LR71-AR00-428. Administrative Matters.

Judicial Oversight Committee. A Judicial Oversight Committee, composed of three judges selected as follows: one of the civil judges on the St. Joseph Superior Court, the St. Joseph Circuit Court Judge, and the St. Joseph Probate Court Judge, or other judicial officer designated by each of these Courts, shall be selected by the judges of the St. Joseph Circuit, Probate, and Superior Courts. The members of the Judicial Oversight Committee shall select one of their members to serve as supervising judge of the St. Joseph Family Court. The supervising judge shall serve for a term of two years. The supervising judge can be reelected.

Supervising Judge. The supervising judge of the St. Joseph Family Court shall have the responsibility of administering Family Court, in consultation with the Judicial Oversight Committee. This shall include the employment and supervision of DRCB personnel with respect to Family Court jurisdiction only. The implementation of rules for Family Court shall be done only after consultation with and

approval by a majority of St. Joseph County judicial officers, including judges and magistrate judges.

Case Management Reporting. The supervising judge of the Family Court and/or its coordinator may report and discuss case procedure with, and report case management status to, any judicial officer presiding over that case regarding the Family Court case assignment.

Rule LR71-FL00-429. Reserved.

Rule LR71-FL00-430. Title IV-D Court.

These local rules are adopted by the Courts of the 60th Judicial Circuit to govern the practice and procedures in the Title IV-D Court, funded by an Ordinance of the St. Joseph County Council.

430.1 Organization of Title IV-D Child Support Court.

Pursuant to I.C. 31-25-4-15, the Judges of the Circuit, Superior, and Probate Courts hereby establish a Title IV-D Court to establish and enforce paternity and child support orders under federal and state law.

430.1.1 Assignment of Magistrate Judge(s) to IV-D Court. The Judges of the Circuit, Superior, and Probate Courts shall appoint jointly one or more magistrate judges to the IV-D Court. A magistrate judge so appointed shall be designated as a IV-D Magistrate Judge.

430.1.2 Responsibilities of IV-D Magistrate Judges. A IV-D magistrate judge jointly appointed by the Judges and assigned to the IV-D Court pursuant to Rule 430.1.1 has the authority to preside over, make findings of fact and recommendations for the approval of the Judges of Circuit, Superior and Probate Courts in actions arising under Title IV-D of the Social Security Act. In addition, the IV-D magistrate judge has the authority to provide such assistance as may be required in making these findings of fact and recommendations.

430.1.3 Temporary Absence of IV-D Magistrate Judge. During the temporary absence of the duly appointed IV-D Magistrate Judge, any magistrate judge of the St. Joseph Circuit Court, St. Joseph Superior Court, or St. Joseph Probate Court may hear and make recommendations upon assignment to the Title IV-D Court by the regularly presiding judge.

430.1.4 Supervision of the IV-D Court. The Title IV-D Court shall be operated under the auspices and supervision of the Judge of the St. Joseph Probate Court. The Judge of the St. Joseph Probate Court may assign such juvenile or probate magistrate judges as are necessary to handle the caseload assigned to the Title IV-D Court.

430.2 Reciprocal Support Paternity Cases.

430.2.1 Transfer of Existing Reciprocal Cases. All reciprocal support paternity cases previously filed in Circuit Court under UIFSA and its predecessors, regardless of the stage in the proceedings, shall be permanently transferred by written ORDER OF TRANSFER to the Probate Court and assigned to

the IV-D Court. Currently, the court identifier is 71C01 and the case type is either RS or MI. The cause numbers shall remain the same upon the transfer

430.2.2 Filing of New Reciprocal Cases. All new reciprocal support paternity cases shall be directly filed in Probate Court and assigned to the IV-D Magistrate Judge. The court identifier for these cases will be 71J01 and the case type will be RS.

430.3 IV-D Petitions for Support in Favor of Third Party Custodian.

430.3.1 Existing Petitions for Support for Child Born Out of Wedlock. All IV-D Petitions for Support in favor of a third party custodian (i.e. child resides with someone other than parent) wherein the child is born out of wedlock and the action has arisen under Title IV-D previously filed in Circuit Court, shall be permanently transferred to the Probate Court by a written ORDER OF TRANSFER and assigned to the IV-D Magistrate Judge. The cause numbers shall remain the same upon the transfer of these cases, with the court identifier being 71C01 and the case type DR.

430.3.2 New Petitions for Support for Child Born Out of Wedlock. All new IV-D Petitions for Support in favor of a third party custodian wherein the child is born out of wedlock and the action has arisen under Title IV-D shall be directly filed in Probate Court and assigned to the IV-D Magistrate Judge. The court identifier for these cases will be 71J01 and the case type will be DR.

430.4 IV-D Petitions for Support for Child of a Marriage.

430.4.1 Existing Petitions for Support for Child Born of a Marriage. All IV-D Petitions for Support wherein the support sought is for a child born of a marriage and the action has arisen under Title IV-D, may be assigned by a written ORDER OF ASSIGNMENT issued by the Judge of the Superior or Circuit Court to the IV-D Magistrate Judge upon a written finding that there is a IV-D support issue to be resolved.

430.4.2 New Petitions for Support for Child Born of a Marriage. New IV-D Petitions for Support for a child born of a marriage will continue to be filed in Circuit Court but the action may be assigned immediately to the IV-D Magistrate Judge by a written ORDER OF ASSIGNMENT issued by the Judge of the Circuit or Superior Court.

430.5 IV-D Child Support Issues arising out of Legal Separation Decree or Dissolution of Marriage Provisional Orders

430.5.1 Pending Child Support Orders Arising from Legal Separation or Provisional Orders. All IV-D child support issues arising out of a Legal Separation Decree or out of a provisional order in a Dissolution of Marriage proceeding will NOT be assigned to the IV-D Magistrate Judge.

430.5.2 Arrearages from Child Support Orders Arising from Legal Separation or Provisional Orders. Once a Legal Separation Decree expires by order or operation of law or once a Dissolution of Marriage Decree is granted, arrearage issues arising out of the provisional order or the Legal Separation

Decree may then be assigned to the IV-D Magistrate Judge by written ORDER OF ASSIGNMENT issued by the Judge of the Circuit or Superior Court upon a written finding that there is a IV-D support issue to be resolved.

430.6 IV-D Child Support Issues arising out of Dissolution Decrees or Post-Dissolution Orders.

All IV-D child support issues arising out of a Dissolution Decree or a Post-Dissolution Order may be assigned to the IV-D Magistrate Judge by written ORDER OF ASSIGNMENT issued by the Judge of the Circuit or Superior Court upon a written finding that there is a IV-D support issue to be resolved or upon a finding that the only remaining matters involved in the case are properly within the jurisdiction of the IV-D judicial officer.

430.7 IV-D Child Support Issues arising out of Paternity Actions.

All IV-D child support issues arising out of a Paternity Action or post-paternity proceedings may be assigned to the IV-D Magistrate Judge by written ORDER OF ASSIGNMENT issued by the Judge of the Probate Court.

430.8 Procedure for Transfer of Cases to Probate Court.

Once a Judge of the Circuit or Superior Court has permanently transferred a case involving IV-D issues to the Probate Court, the Local Probate Rules and the Local Rules for Electronic Filing will control. To effectuate the transfer, the following procedure will be followed:

- (7) The ORDER OF TRANSFER will be entered onto the original physical docket sheet as well as a notation that the case

transferred into *QUEST*. No further entries shall be made on the original docket sheet. The flat file and original docket sheet shall be stored in the clerk's office of the court of origin.

- (8) A copy of that ORDER OF TRANSFER, a copy of the docket sheet, and copies of any relevant pleadings including but not limited to the initial pleadings on any pending IV-D matters and all orders entered regarding any previous IV-D matter shall be compiled by the IV-D Clerk.
- (9) Upon receipt of the ORDER OF TRANSFER being received, the IV-D Clerk shall enter the referred case into *QUEST*, and scan all orders, pleadings, and the docket sheet into *QUEST*. All court filings shall be done on *QUEST* pursuant to the Local Rules for Electronic Filings.
- (10) The ORDER OF TRANSFER will be served upon all parties by the Child Support Division of the Prosecutor's Office. If a pending issue requires an immediate setting of a hearing, the Child Support Division shall also be responsible for coordinating the hearing date and time and notifying all parties.

430.9 Procedure for Assignment of IV-D Matters to IV-D Court.

Once a Judge of the Circuit, Superior or Probate Court has assigned a case involving IV-D issues to the IV-D Magistrate Judge for the resolution of IV-D issues, the following procedure will control:

- (1) Cases may be considered for assignment at the oral or written request of any party or *sua sponte* by the assigning Judge.
- (2) The Judge may issue a written ORDER OF ASSIGNMENT upon a finding that a IV-D support issue needs to be resolved or upon a finding that the only remaining matters involved in the case are properly within the jurisdiction of the IV-D Court. The

ORDER OF ASSIGNMENT will be entered onto the original physical chronological case summary (CCS) or docket sheet.

- (3) A copy of that ORDER OF ASSIGNMENT, a copy of the CCS, and copies of any relevant pleadings including but not limited to the initial pleadings on any pending IV-D matters and all orders entered regarding any previous IV-D matter shall be compiled by the clerk of the court of origin upon request of the Child Support Division of the Prosecutor's Office and these documents shall be forwarded to the IV-D Clerk located at the Probate Court.
- (4) Upon an ORDER OF ASSIGNMENT being entered, the Child Support Division of the Prosecutor's Office shall provide an *ISETS & QUEST* Information Form to the IV-D Clerk located at the Probate Court.
- (5) Upon receipt of the ORDER OF ASSIGNMENT being received, the IV-D Clerk shall enter the referred case into *QUEST*, and *ISETS* if necessary, and scan all orders, pleadings, and the docket sheet into *QUEST*. All court filings shall be done on *QUEST* pursuant to the Local Rules for Electronic Filings; however, for cases assigned by the Circuit or Superior Court, a copy of all pleadings will be maintained in the original flat file and an entry shall be made on the CCS unless otherwise ordered by the assigning court.
- (6) The ORDER OF ASSIGNMENT will be served on all parties by the Child Support Division of the Prosecutor's Office. If a pending issue requires an immediate hearing, the Child Support Division shall also be responsible for coordinating the hearing date and time and notifying all parties.
- (7) All non-IV-D matters that arise following an assignment to the IV-D Magistrate Judge shall be filed with the Clerk of the

originating Circuit or Superior Court. Assigned IV-D issues may be recalled by the assigning judge at any time and the IV-D Magistrate Judge shall send back the assigning judge any assigned issues that require the consideration of non-IV-D matters.

- (8) All findings and recommendations of the IV-D Magistrate Judge shall become orders upon approval and adoption by the originating Judge. Proposed orders shall be prepared in *QUEST* and transmitted electronically along with a proposed Chronological Case Summary to the originating Judge for possible approval and adoption. The receiving Judge shall receive the electronic proposed orders by email and shall be responsible for periodically checking email for said proposed orders. Said orders will appear on the *QUEST* Documents to approve screen of the judge who signed the assignment order so that said judge may approve or reject the order proposed by the IV-D Magistrate Judge. Upon approval of the order, the Judge shall print out the order and CCS and provide this to the assigned Clerk who will make it a part of the flat file and add the CCS entry to the docket sheet.
- (9) A transfer, assignment, or recall of cases shall be done by separate order of the sending or recalling judicial officer.
- (10) Procedure for Objection to Assignment: Assignment to the Title IV-D Court is within the sole discretion of the regularly presiding judge to whom the case has been venued. A change of venue from the regularly presiding judge may be made under applicable Indiana Trial Rules or statutes. An objection to assignment to the Title IV-D court shall be made to the regularly

presiding judge and is within his or her discretion to grant or deny.

LOCAL RULES FOR SMALL CLAIMS FOR ST. JOSEPH COUNTY
(500 SERIES)

Rule LR71-TR1-501. Intent and Scope.

These local rules are adopted by the Courts of the 60th Judicial Circuit to govern the practice and procedure in Small Claims proceedings.

Rule LR71-AR00-502. Appearance in Court.

502.1. Verification of Presence. All counsel and litigants must verify their presence for any scheduled hearing or trial by checking in with the bailiff and signing his or her name to the bailiff's daily log.

502.2. Prompt Appearance at Hearings and Trials. Prompt appearance at the time scheduled for all hearings and trials is enjoined upon Court, counsel and parties. Should an occasion arise when counsel or a party proceeding *pro se* can reasonably anticipate that he or she will be tardy for a scheduled hearing or trial, or a scheduled hearing or trial must be rescheduled due to an unanticipated emergency, counsel or the party shall notify the Court immediately.

502.3. Requirements for Parties and Attorneys. All parties and counsel shall pursue all reasonable opportunities to resolve disputes and conflicts before relying on the court for a determination. It is required that, except for cases involving orders of protection for a person, all parties and counsel shall meet and discuss resolution of their dispute and conflicts prior to any hearing or trial. Failure to comply with this requirement may result in possible delay or cancellation of the hearing or trial. Prior to the commencement of

any hearing or trial, the parties shall certify to the Court that they have complied with this requirement.

Rule LR71-SC15-503. Court Reporting.

503.1. Recording. Proceedings in Small Claims – South Bend and in Small Claims – Mishawaka shall be recorded by the Court by means of audiotape recording only. The official court record shall remain under the control of the Official Court Reporter or the Court unless otherwise ordered by the Court or an Indiana appellate court.

Rule LR71-SC2-504. Filing, Forms.

504.1. Use of Forms. Counsel and parties filing a claim or counterclaim must use the claim form provided by the Clerk or a substantially similar form, if approved by the Court. Forms for other routine matters are available from the Clerk. All motions must be accompanied by an appropriate order for the Court's consideration and use.

504.2. Restricted Access. Where a motion, petition, or other pleading is excluded from public access under A.R. 9(G), the parties and their counsel are enjoined to comply with the filing requirements of T.R. 5(G).

504.3. Minute Entry Codes. The Court's Minute Entry Codes shall be used by counsel and litigants for summarizing standard entries on the Chronological Case Summary (CCS).

504.4. Court Files. No Court file nor any part thereof may be removed from the custody of the Court Clerk by any person, including any attorney or Judge of this or any other Court, except upon authorization by the regularly presiding Judge to which the case is assigned and then only upon such terms and conditions as may be provided by him in the Order for authorization. One unalterable and invariable condition of this Order is the written acknowledgment of the authorized person that he has such file in his personal possession.

Rule LR71-SC6-505. Discovery.

Discovery may be undertaken only upon written motion, with a copy of the proposed limited discovery sought to be attached, and approval by the Court. Requests for third party discovery in aid of collection on a judgment shall not be approved, without good cause, prior to at least one unsuccessful attempt to gain information through proceedings supplemental.

Rule LR71-SC12-506. Change of Venue.

506.1. Payment of Transfer Fee. When a change of venue from the County is granted, all accrued costs and the fee for transfer must be paid to the clerk by the moving party within ten (10) days after the transfer order is entered.

506.2. Failure to Pay Fee. In the absence of such payment, the movant will be deemed to have abandoned the motion so the Clerk will not perfect the change, the cause will be restored to the docket of this

Court, and this Court shall resume general jurisdiction of the cause in accordance with T.R. 76.

Rule LR71-AR00-507. Transfer the Court's Plenary Division.

507.1. South Bend. Cases pending in Small Claims – South Bend and on which transfer to the plenary calendar of the St. Joseph Superior Court has been sought and granted shall be re-assigned by the Clerk pursuant to the Clerk's random case assignment.

507.2. Mishawaka. Cases pending in Small Claims – Mishawaka and on which transfer to the Court's plenary calendar of the St. Joseph Superior Court has been sought and granted shall be re-assigned by the Clerk to the plenary calendar of the judge of the St. Joseph Superior Court assigned to the Mishawaka Division of the St. Joseph Superior Court.

Rule LR71-AR00-508. Incorporation of Small Claims Manual.

The July 2005 Small Claims Manual, published by the Indiana Judicial Center, is adopted and incorporated herein, as the same may be amended from time to time.

LOCAL PROBATE RULES FOR ST. JOSEPH COUNTY (600 SERIES)

Rule LR71-PR00-601. Notice.

601.1. **Attorney Responsibilities.** Whenever notice by publication and/or written notice by U.S. Mail is required to be given, the attorney shall prepare such notice and shall ensure that such notice is properly published and/or served by certified mail, return receipt requested. In all respects, the notice shall comply with all statutory requirements. It shall be the attorney's responsibility to ascertain and provide adequate proof thereof regarding whether notice was properly served prior to bringing a matter to the Court.

601.2. **Petitions to Accompany Notice.** Copies of petitions or motions shall be sent with all notices where the hearing involved arises from the matters contained in the petition or motion.

601.3. **Service of Notice of Hearing.** Whenever any estate or guardianship account (including a final account in a supervised estate) is set for hearing, copies of the account must be served with the notice of hearing.

601.4. **Notice of Opening of Estate.** Notice of the opening of an estate shall be sent by First Class United States Mail to all reasonably ascertainable creditors; however, the use of "certified mail, return receipt requested," to serve such notice is recommended.

601.5. **Notice of Insolvent Estate.** Notice of the hearing to be held on a Petition to determine an estate insolvent shall be served on all

interested parties, including the local representative of the Inheritance Tax Division of the Indiana Department of Revenue.

601.6. Electronic Filing. Notice requirements in the Probate Court must also comply with the Local Rules for Electronic Filing.

Rule LR71-PR00-602. Filing of Pleadings.

602.1. Compliance. All filings in the Probate Court must comply with the Local Rules for Electronic Filing.

602.2. Routine Pleadings. Routine pleadings, such as Inventories, Inheritance Tax Schedules, and Final Reports, may be filed with the Clerk for transmittal to the Court.

602.3. Preparation of Orders. All attorneys are required to prepare orders for all proceedings except when expressly directed otherwise by the Court.

602.4. Guardianships. Guardianships shall be signed and verified by the fiduciary and signed by the attorney for the fiduciary.

602.5. Attorney Information. All pleadings filed shall contain the attorney's name, address, telephone number, and registration number.

602.6. Initial Petition. The initial petition to open an estate or guardianship shall contain the name, address, social security number, birth date,

and telephone number of the personal representative or guardian, if a person.

602.7. Affidavit of Compliance. The affidavit of compliance with the notice provisions directed to creditors in an estate proceeding shall be timely filed with the Clerk of the Court.

Rule LR71-PR00-603. Bond.

603.1. Bond Waived by Will. Where, under the terms of the Will, the testator expresses an intention that the bond be waived, the Court shall set a bond adequate to protect creditors, tax authorities, and devisees.

603.2. Heir or Legatee Fiduciary. Where the fiduciary is an heir or legatee of the estate, the bond may be reduced by said fiduciary's share of the estate, or the value of real estate, or other assets that cannot be transferred or accessed without court approval or order. The Court shall have the right to review the amount of bond if the Court should grant access to such property or asset.

603.3. Request for Service Without Bond. Where the heirs or legatees have filed a written request that the fiduciary serve without bond, the Court may set bond in an amount adequate to protect the rights of the creditors and tax authorities only.

603.4. Unsupervised Estate. In an unsupervised estate, bond may be set at the discretion of the court. In the Probate Court, bond will be required unless the personal representative is the sole beneficiary.

603.5. Corporate Banking Fiduciary. No bond shall be required in any estate or guardianship in which a corporate banking fiduciary qualified by law to serve as such is either the fiduciary or one of several co-fiduciaries.

603.6. Petition to Open Estate. All petitions to open an estate or guardianship shall set forth the probable value of the personal property.

603.7. Insurance Agency. The name and address of the insurance agency providing the corporate surety shall be typed or printed on all corporate bonds in any estate or guardianship.

Rule LR71-PR00-604. Inventory.

604.1. Time Period for Preparation. An inventory shall be prepared by the fiduciary in estates and guardianships as follows: Supervised estate, within sixty (60) days; guardianships, within ninety (90) days for permanent guardians and within thirty (30) days for temporary guardians. All times relate to the date of appointment of the fiduciary.

604.2. Partial Inventory. In the event a partial inventory is prepared, all subsequent inventories must contain a recapitulation of prior inventories.

604.3. Sealed Inventory. In the event that the personal representative should request that an inventory be sealed, the Court may, in its sole discretion, seal such inventory. If an inventory is sealed, it shall be

maintained in the court reporter's evidence file in the Court in which such estate is filed.

Rule LR71-PR00-605. Real Estate.

605.1. Deed Requirements. All deeds submitted to the Court for approval in either estate or guardianship proceedings shall be signed by the fiduciary and the signature notarized prior to its submission unless the court permits otherwise. All such deeds shall be submitted with the or at the time of the hearing on the Final Account unless the Court permits otherwise.

605.2. Unsupervised Estates. No Personal Representative's Deed shall be approved in unsupervised estates.

Rule LR71-PR00-606. Accounting.

606.1. Failure to Close Within One Year. Whenever an estate cannot be closed within one (1) year, the personal representative shall file a statement with the Court stating the reasons why the estate has not been closed if requested by the Court. In addition, the Court reserves the power to require the personal representative to file an intermediate accounting with the Court.

606.2. Guardianship. All guardianship accountings shall contain a certification of an officer of any financial institution in which guardianship assets are held, verifying the account balance.

- 606.3. Social Security/Medicare Benefits.** All social security or Medicare benefits received on behalf of an incapacitated person shall be included and accounted for in the guardianship accounting unless court approval has been previously granted to allow said funds to be paid directly to a residential or health care facility, or because of the amount of such funds, the Court finds that such funds can only be used by the guardian or designated person for the benefit of use of such incapacitated person.
- 606.4. Statutory Format.** All accounts shall follow the prescribed statutory format. Informal, handwritten, or transactional accountings will not be accepted.
- 606.5. Payment of Court Costs.** All court costs shall be paid and all claims satisfied and released before the hearing on the Final Account, and a Clerk's Certification thereof shall be filed with the Court before such Final Account shall be approved.
- 606.6. Closing Letters.** The Federal Estate Tax Closing letter and the Indiana Inheritance Tax Closing letter (or the countersigned receipt) or a photocopy thereof, showing payment of all Federal Estate and/or Indiana Inheritance Tax liability in the estate, executed by the Internal Revenue Service or the Indiana Department of State Revenue, shall be attached to the Final Accounting at the time of filing, unless the Court has given prior written approval to attach such letter to the Final Report, after filing but prior to the hearing on the Final Accounting.

Rule LR71-PR00-607. Unsupervised Administration.

607.1. Payment of Court Costs. All court costs shall be paid and all claims satisfied and released on or before the date of the filing of the Closing Statement and a Clerk's Certification thereof shall be filed with the Court at the time such Closing Statement is filed with the Court.

607.2. Closing Statement. The Court may enter an order approving the Closing Statement.

Rule LR71-PR00-608. Miscellaneous.

608.1. Inheritance Tax Schedule. If the Court determines that no Inheritance Tax Schedule is required to be filed, a copy of the Court's order shall be served on the local representative of the Inheritance Tax Division of the Indiana Department of Revenue.

608.2. Implementation of Rules. The court may adapt procedures by standing order to effectuate implementation of these rules, and may deviate from these rules when justice requires, but only upon showing of severe prejudice or hardship.

Rule LR71-PR00-609. Guardianships.

609.1. Filing of Current Reports. Current reports filed by a guardian of the person shall state the present residence of the incapacitated person and his or her general welfare. If the incapacitated person is an adult, a report of a treating physician shall be filed with the current report, verifying that the incapacity of the person remains unchanged

since the date the guardianship was established or the date of the last current report and that the living arrangements for the incapacitated person are appropriate.

609.2. Compliance with Other Rules. Nothing herein shall be deemed as amending, superseding, or altering the Probate Rules and Regulations promulgated by the Veteran's Administration of the United States of America, and every fiduciary and attorney shall comply with same, if applicable.

609.3. Financial Matters. Other than for routine matters, the guardian shall obtain court approval prior to taking any action on any financial matter pertaining to carrying out the guardian's duties and responsibilities for the protected person.

**LOCAL RULES FOR ELECTRONIC FILING FOR ST. JOSEPH
COUNTY (700 SERIES)**

Rule LR71-AR16-701. Electronic Filing of Cases in St. Joseph County.

701.1. **Purpose.** The Courts in St. Joseph County, generally, and the St. Joseph Probate Court, specifically, intend to use current technology to improve efficiency, public access, and ease of use. With the approval of the Supreme Court of Indiana pursuant to T.R. 77, the Courts set forth these local rules of procedure to assist the public, the bar, and the courts in implementing electronic filing and computer case management for the Circuit, Superior, and Probate Courts.

701.2. **Authority.** The following rules are hereby adopted and promulgated pursuant to T.R. 81 of the Indiana Rules of Trial Procedure.

701.3. **Control.** If any local rule shall conflict with, or be inconsistent with the Indiana Rules of Trial Procedure, the latter shall control.

Rule LR71-AR16-702. Filing of Cases in the St. Joseph Probate Court.

702.1. **Application.** These rules apply to all new cases filed with the Probate Court and all old cases already filed with the Probate Court. Old cases will not be required to convert to the computer system until some activity occurs in the case. As of January 1, 2006, all documents (other than those specifically excepted by the Probate Court) shall be filed electronically in all cases.

702.2. **Case Management System.** The Probate Court is utilizing a computer case management system known as "*QUEST*". A filing in

QUEST or a *QUEST* filing is a filing in the Probate Court's computer system.

702.3. Electronic Court Files. Probate Court files kept electronically shall be available for inspection by the public and the bar except for those files that are deemed confidential by statute or court order.

702.4. Electronic Filing of Pleadings.

702.4.1. New Cases. Prior to creating a new case in the *QUEST* system, a party must obtain a cause number from the Clerk of the Court. The cause number may be obtained upon submission of an appearance form and payment of the filing fee to the Clerk [or upon presentation to the Clerk of a court order waiving the filing fee]. Issuance of a cause number does not constitute a "filing" and will not toll any statute of limitations or other time limitation. In order to create a new case in the court computer system (*QUEST*), a person must have a password and user identification granting access to the system. An action must be commenced in conformity with Trial Rule 3 and pursuant to Trial Rules 4 through 4.17 of the Indiana Rules of Trial Procedure.

702.4.2. Existing Cases. The CCS and pleadings of any existing case may be viewed on the *QUEST* system by use of a valid password. This does not apply to cases that are confidential by virtue of the law or court order. To electronically file a pleading in *QUEST*, one must first complete an appearance form and file it with the clerk. Upon accepting the appearance form filing, the Clerk will make that case accessible for the filing of pleadings by the person who has

made the appearance. Whenever an attorney withdraws his appearance in a case, his accessibility to that case for the filing of pleadings will be removed.

702.4.3. **Time of Filing.** Document may be filed through an E-filing system at any time that the Clerk's office is open to receive the filing or at such other times as may be designated by the Clerk and posted publicly. Documents filed through the E-filing system are deemed filed the next regular time when the Clerk's office is open for filing. The time stamp issued by the E-filing system shall be presumed to be the time the Document is received by the Clerk.

702.4.4. **Notice of Filing of Pleading (*Manner of Service*).** In addition to the usual ways of serving parties of record pursuant to T.R. 5, service may be made by *QUEST* e-mail on those parties of record or their attorneys who are current users of the *QUEST* system. Said notice shall indicate the name of the pleading filed, the date it was filed, and any hearing date thereon, if applicable. The notified party or attorney may then access the pleading through the *QUEST* system. The Clerk of the Probate Court shall maintain a list of current users of the *QUEST* system.

702.5. System Access.

702.5.1. **Password.** In order to access Probate Court files electronically on the *QUEST* case management system, a person must obtain a unique user name and password. Prior to being assigned a user name and password, the requesting individual must execute a user agreement with the Probate Court. Upon receipt of the signed user agreement, the

QUEST system administrator will issue a unique user identification and password.

702.5.2. **Security.** Each person is responsible for the use of his password. No person shall knowingly utilize or cause another person to utilize the password of another without permission of the holder of the password or in violation of these rules. No attorney shall knowingly permit or cause to permit his user name and password to be utilized by anyone other than an employee of his law firm.

702.5.3. **Fees and Waiver.** The user agreement requires parties to pay a nominal fee. However, access shall be free of charge for parties or litigants claiming indigence.

702.5.4. **Training and Assistance.** The Court will provide assistance and/or instruction to individuals utilizing the electronic filing system. Provisions will be made to ensure access to the system by disabled or self-represented parties or litigants.

702.6. **Electronic Signature of Documents.** Documents filed through the E-filing system by use of a valid user name and password are presumed to have been signed and authorized by the user to whom that user name and password have been issued. The following will meet the signature requirements:

- (1) Where an attorney's signature is required on a pleading, the *QUEST* imprint of the attorney's name on the pleading will satisfy said requirement.
- (2) Where a person's signature is required on a verified pleading or document, the *QUEST* imprint of the name will satisfy the

requirement; however, the attorney is required to maintain an original, signed paper copy in his office.

- (3) A *pro se* litigant is required to file a signed paper copy with the clerk.

702.7. Format of Pleadings. Pleadings shall conform to form or layout designed by the Court pursuant to LR71-TR77-201.3.5. The Court reserves the right to strike any pleading that does not conform to the requirements of the Quest or Odyssey case management systems or that create an undue hardship of Court staff who are assigned to prepare and/or complete entries and orders in those case management systems.

LOCAL JURY RULES FOR ST. JOSEPH COUNTY (800 SERIES)

Rule LR71-AR00-801. Definitions.

- 801.1. **Court.** The term “Court” or “Courts” shall mean the St. Joseph Circuit, Superior, and Probate Courts.
- 801.2. **Judge.** The term “Judge” or “Judges” shall mean the Judge of the Circuit Court, the Judge of the Probate Court, and the Chief Judge of the Superior Court.
- 801.3. **Jury Administrator.** The term “Jury Administrator” shall mean a person so appointed to administer and manage the jury process to the extent permitted by Indiana Law.
- 801.4. **Jury Pool.** The term “Jury Pool” shall mean a list of names, the number of which is to be determined annually by the Judges, drawn in accordance with this rule, from the list of names supplied by the Indiana Supreme Court, pursuant to statute and the Indiana Jury Rules.
- 801.5. **Notice of Jury Service.** The term “Notice of Jury Service” shall mean a written document which accompanies the Juror Qualification and Questionnaire Form and provides general information regarding the juror selection process of the St. Joseph County Courts.
- 801.6. **Juror Qualification and Questionnaire Form.** The term “Juror Qualification and Questionnaire Form” shall mean a written document which solicits information from prospective jurors regarding statutory qualification and exemptions.

801.7. Summons. The term “Summons” shall mean a written document which notifies a prospective juror of the dates and details of their jury service.

801.8. Bi-monthly List. The term “Bi-monthly List” shall mean a random sub-set of the Jury Pool which shall be requested from the Clerk of Court by the Jury Administrator. Unless otherwise directed by the Judges, the bi-monthly Venire List shall be composed of one-sixth (1/6) of the Jury Pool.

Rule LR71-AR00-802. Effective Date.

In compliance with the Indiana Jury Rules, these rules shall become effective immediately.

Rule LR71-AR00-803. Scope.

The rules shall govern petit jury assembly, selection, and management in the Courts.

Rule LR71-AR00-804. Initial Appointment of Jury Administrators.

The following are hereby appointed to act as Jury Administrators, to administer the jury assembly process:

- (1) A sufficient number of Jury Commissioners as appointed by the Courts pursuant to the Indiana Code.
- (2) At least one (1) Jury Clerk from the St. Joseph County clerk’s office.
- (3) The bailiff of each Court and judge thereof.

Rule LR71-AR00-805. Additional Modification of Appointments.

Appointments made pursuant to this rule shall be updated or modified, from time to time, as deemed necessary.

Rule LR71-AR00-806. Assembly of the Jury Pool.

No later than November 1 of each calendar year, the Jury Pool shall be assembled for the next calendar year by randomly selecting names from the appropriate lists as may be required and supplied by the Indiana Supreme Court and/or appropriate statute.

Rule LR71-AR00-807. Summoning Jurors.

Jurors shall be summoned using a Two Tier Notice and Summons procedure, as follows:

- (1) At least bi-monthly, the Jury Administrator shall randomly draw the bi-monthly Venire List from the Jury Pool and mail, or cause to be mailed, the Notice of Jury Service and Juror Qualification and Questionnaire Form. The bi-monthly lists may be drawn prior to each two-month jury service period or at any other time as may be appropriate.
- (2) Not later than one (1) week before a jury panel for jury selection is needed, the Jury Administrator or Bailiff assigned to each court shall mail, or cause to be mailed, the Summons of Jury Service which shall specify the specific dates for which the prospective juror shall remain on call for jury service.
- (3) Each Judge may implement such additional procedures as he or she may believe will best ensure compliance with the Summons for Jury Service.

Rule LR71-AR00-808. Assistance of the Clerk of Court.

At the discretion of the Court, the Jury Administrator may receive technical, administrative, or clerical assistance in summoning prospective jurors from the Office of the St. Joseph County Clerk.

Rule LR71-AR00-809. Criteria for Disqualification.

Prospective jurors shall be found disqualified from jury service using only those criteria which is expressly provided in the Indiana Code and/or the Indiana Jury Rules.

Rule LR71-AR00-810. Criteria for Exemption.

Prospective jurors shall be exempted from jury service using only those exemptions expressly provided in the Indiana Code and/or the Indiana Jury Rules.

Rule LR71-AR00-811. Documentation of Disqualification, Exemption, or Deferral.

Facts supporting disqualification, exemption, or deferral from jury service shall be provided to the Court, in writing, under oath or affirmation.

Rule LR71-AR00-812. Term of Jury Service.

The term of jury service shall be that as set forth in Indiana Jury Rule 9.

Rule LR71-AR00-813. Record Keeping.

813.1. Format. Records of the jury management in the Courts shall be maintained, in written format, electronic format, or both, by the Jury Administrator.

813.2. Items Included. Records shall include, but are not limited to:

- (1) Annual jury pool;
- (2) Periodic list;
- (3) Jurors qualified;
- (4) Exemptions granted;
- (5) Deferrals granted;
- (6) Jurors who served; and
- (7) Terms of service.

813.3. Protocols. The protocols for record keeping and retention established in each Court shall comply strictly with the standards established in the Indiana Code, Indiana Jury Rules, Indiana Administrative Rules, or otherwise provided by Indiana Law.

Rule LR71-AR00-814. Juror Privacy.

In addition to, and to the extent that it is not contrary to disclosure either permitted or prohibited by Indiana Supreme Court Administrative Rule 9:

- (1) Personal information relating to a juror or prospective juror not disclosed in open court is confidential, other than for the use of the parties and counsel.
- (2) Upon request, copies of the Juror Qualification and Questionnaire Form may be made available to counsel on the date of trial.

- (a) All copies of the Juror Qualification and Questionnaire Form so provided shall be returned to the Court at the completion of the jury selection process.
 - (b) No photocopies or duplicates of the Juror Qualification and Questionnaire Form shall be made without specific Court authorization.
- (3) Each Court shall take steps to protect and maintain juror privacy and the confidentiality of juror information.

Rule LR71-AR00-815. Miscellaneous.

All other proceedings involving the assembly, selection, and management of petit juries in the Courts shall be conducted as required by the Indiana Jury Rules.

LOCAL RULE FOR COURT FEES FOR ST. JOSEPH COUNTY (900 SERIES)

Rule LR71-AR00-901. Intent and Scope of Fee Schedule.

The Courts adopt the following schedule of fees for referrals to offset the costs of court services and to reduce the burden on the county taxpayer. The Courts find that the following rules establish a reasonable schedule of user fees for the Courts of St. Joseph County.

Rule LR71-AR00-902. Fee Schedule for CSAP and Drug Court.

The Courts adopt the following schedule of fees for referrals to the Court Substance Abuse Program (CSAP) and Drug Court.

902.1. CSAP User Fee. A party referred to CSAP shall pay a user fee of \$400.00, which is payable to the Clerk of the Court. This CSAP user fee will include an assessment, participation in drug education, if recommended, case monitoring and case closure.

902.2. Drug Court User Fee. A party referred to Drug Court shall pay a user fee of \$500.00, which is payable to the Clerk of the Court. This Drug Court user fee will include an assessment, participation in drug education, if recommended, case monitoring and case closure.

902.3. Urine Drug Screening Fees. Urine Drug Screening Fees payable to the Court Substance Abuse Program laboratory for deposit with the auditor as follows:

(a) Drug Court Urine Drug Screening Fees: \$20.00 for positive drug screens, \$15.00 for negative drug screens, \$3.00 for no specimen fees, \$2.00 for breathalyzer fee, and \$45.00 for confirmation testing at an off-site laboratory.

(b) CSAP Urine Drug Screening Fees: \$15.00 for drug screens, \$3.00 for no specimen fees, \$2.00 for breathalyzer fee, and \$45.00 for confirmation testing at an off-site laboratory.

902.4. Transfer Fees. Transfer fees shall be payable to the Clerk of the Court as follows:

(a) Transfer to another jurisdiction: A transfer fee of \$75.00 shall be paid to the Clerk of the Court to transfer a case to another state or in-state jurisdiction, or to transfer directly to an in-state or out-of-state treatment provider without alcohol and drug assessment.

(b) Transfer from another jurisdiction: A transfer fee of \$150.00 shall be paid to the Clerk of the Court for cases transferred from another jurisdiction.

902.5. Case Monitoring Fees. A party referred for case monitoring only shall pay a fee of \$75.00, which includes monitoring compliance with treatment at a court-ordered treatment provider and for monitoring of urine drug screens.

902.6. Alcohol and Drug Assessments. A party referred for an alcohol and drug assessment without other services shall pay a fee of \$150.00.

Rule LR71-AR00-903. Late Payment Fee for Court Costs, Fines and Civil Penalties.

Pursuant to Indiana Code 33-37-5-22, the Courts of St. Joseph County adopt a late payment fee in the sum of twenty-five (\$25.00) for defendants who have not tendered timely payment of costs, fines or civil penalties.

903.1 Definitions.

903.1.1.1 Definition of Defendant. For the purposes of this local rule, an individual who has committed a crime, violated a statute defining an infraction, violated an ordinance of a municipal corporation, or committed a delinquent act, is defined as a “defendant.”

903.1.1.2 Definition of Costs. For the purposes of this local rule, costs includes court costs and fees assessed by a Court.

903.2 Assessment of Late Payment Fee. A defendant who is required to pay court costs (including fees), a fine, or civil penalty and who has not been determined by the Court imposing the costs, fine or civil penalty to be indigent shall pay, in addition to the costs, fine or civil penalty, a late payment fee in the sum of \$25.00 to the Clerk of the Court if the defendant fails to pay the costs, fine or civil penalty in full before the later of the following: (a) the end of the business day on which the Court enters the conviction or judgment; or (b) the end of the period specified in a payment schedule set for the payment of court costs, fines, and civil penalties adopted for the operation of the Courts of St. Joseph County.

903.3 Clerk to Assess and Collect Late Payment Fee. When a defendant meets the criteria described in LR71-AR00-903.2, the Clerk shall assess and collect a late payment fee in the sum of \$25.00, unless the late payment fee is suspended by Court order as provided by LR71-AR00-903.4. The Clerk may take all appropriate steps to collect late payment fees, including without limitation the retention of legal counsel to effectuate collection proceedings.

903.4 Court May Suspend Late Payment Fee. Notwithstanding LR71-AR00-903.2, the Court that imposed the costs, fine or civil penalty may suspend the late payment fee required by this Rule if the Court finds that the Defendant has

demonstrated good cause for failure to make a timely payment of the previously assessed costs, fine or civil penalty and issues an order to that effect directing the Clerk of the Court to suspend the assessment and collection of the Late Payment Fee.

LOCAL RULE (1000 SERIES)

Reserved.

LOCAL EMERGENCY COURT RULES FOR ST. JOSEPH COUNTY
(1100 SERIES)

Rule LR71-AR00-1101. Intent and Scope of Local Emergency Court Rules.

Local Emergency Court Rules are temporary in nature and shall only remain in effect until January 1 of the next odd numbered calendar year (e.g. 2009, 2011, etc.) unless converted into a permanent local rule.

Rule LR71-TR4.9-1102. Temporary Rule Concerning Mortgage Foreclosures on Real Estate.

Effective April 15, 2010, Plaintiffs filing new mortgage foreclosure (MF) actions in the St. Joseph Circuit Court or the St. Joseph Superior Court will be required to provide to the Clerk of the Court:

- One (1) additional stamped, addressed envelope, with no return address information, for each individual (but not including any corporation or entity) named as a defendant,

AND

- A service list, including the name, address and, if available, the telephone number of each defendant.

This rule is adopted by the St. Joseph Circuit Court and the St. Joseph Superior Court pursuant to an initiative of the Indiana Supreme Court and the Indiana Housing and Community Development Authority to train and recruit

volunteer lawyers to assist homeowners facing foreclosure and in furtherance of the purposes underlying Senate Enrolled Act No. 492 (2010).

Failure to comply with this rule will delay the processing of the case by the Clerk until compliance is achieved.

All MF actions filed on or after April 15, 2010, in the St. Joseph Circuit Court or the St. Joseph Superior Court, in which a timely request for settlement conference is made pursuant to Ind. Code 32-30-10.5-10, shall be the subject of an administrative transfer to the St. Joseph Superior Court, Mishawaka Division, for purposes of the scheduling and conduct of such settlement conference.

Unless extended by the St. Joseph Circuit Court and/or the St. Joseph Superior Court, this Temporary Rule expires on December 31, 2012.